



Officially Recognized by
the Commission on the
Bicentennial of the United
States Constitution

A Resource Guide
**BICENTENNIAL
OF THE
CONSTITUTION**



SUPPLEMENT III: 1990
ESTABLISHMENT OF THE JUDICIARY
AND THE UNIFORM CODE
OF MILITARY JUSTICE

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Richard A. ...

*“We the People of the United States,
in Order to form a more perfect Union, establish
Justice, insure domestic Tranquility, provide for the
common defence, promote the general Welfare, and
secure the Blessings of Liberty to ourselves and our
Posterity, do ordain and establish this Constitution
for the United States of America.”*

As military or civilian representatives of the Armed Forces of the United States, our first official act when we enlist or accept commissions of federal appointments is to swear or affirm an oath to support and defend the Constitution of the United States. This act makes us unique among most Americans. Why? Because only federal government personnel -- including military and civilian, as well as elected and appointed officials -- swear or affirm this oath to support and defend the document that serves as the foundation of our government and way of life. Our first duty to the Nation, stated in the Preamble, is "to provide for the common defence." Providing for the common defense is clearly interrelated to the last goal stated in the Preamble which is to "secure the Blessings of Liberty to ourselves and our posterity." Most assuredly, these two goals of national defense and liberty relate directly to ensuring a stable world environment under freedom.

Telling the significant story of the Constitution is a wise investment in a future whose generations will continue to understand and appreciate, as well as enjoy, and, if necessary, fight for those blessings which have been bestowed upon them during the last two centuries. George Mason, author of the Virginia Declaration of Rights, said that if a free people do not look back at their rights and how they secured them, they take the risk of losing them. Understandably, the Department of Defense is committed to telling this great story of liberty and to honoring this magnificent document of freedom.

*“What is honored in a country will
be cultivated there.”*

Plato



REFERENCE

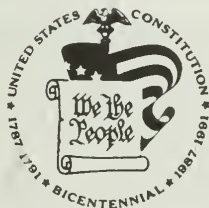
BICENTENNIAL OF THE UNITED STATES CONSTITUTION

A RESOURCE GUIDE

SUPPLEMENT III: 1990

The Establishment of the Judiciary and
The Uniform Code of Military Justice

Office of the Special Consultant to the Secretary of the Army
for the Bicentennial of the United States Constitution
Washington, D.C. 20310-0107



Officially Recognized by the
Commission on the Bicentennial of the United States Constitution

The purpose of this resource guide is to help commands plan commemorative programs and activities during the Bicentennial of the United States Constitution. The Department of the Army has been designated the Executive Agent for the Department of Defense for celebrating the Constitution Bicentennial. Local reproduction of this guide is encouraged.



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Department of Defense Observance of the Bicentennial of the United States Constitution 1987-1991

On 14 September 1986, a Joint Service Review held at Fort Meade, MD, commemorating the Bicentennial of the Annapolis Convention marked the beginning of the five-year commemoration of the Bicentennial of the United States Constitution. A Presidential Commission has been established to oversee the national commemoration through 1991. Headquarters, Department of the Army, has executive agent responsibility for the Department of Defense program. The plan is to weave the thread of the Constitution throughout various programs and activities conducted during the Bicentennial period to include Armed Forces Day, Service Birthdays, Independence Day, Organization Day, Memorial Day, Veteran's Day, and Constitution Week.

The Department of Defense commemorative focus is fourfold:

- (1) To demonstrate the role and relationships of military in National Government.
- (2) To provide educational and historical lessons for soldiers, sailors, airmen, marines, their families and civilian employees.
- (3) To instill a sense of commitment, values, leadership, and public service of the 23 Soldier-Statesman Signers.
- (4) To emphasize civilian control over the military.

In 1987, the framing and signing of the Constitution were highlighted with particular focus on twenty-three of the forty signers who were veterans of the Revolutionary War. In 1988, the annual theme focused on ratification of the formidable document, the anniversaries of the states as they joined the Union, and 200 years of Soldier-Statesman leadership and service in state and local governments. In 1989, we celebrated the Bicentennial of the establishment of the Federal Government and National Defense during which the convening of the first Congress, the inauguration of the first President, the establishment of the Department of War, and the formal establishment of the Army under the new Constitution were highlighted. To continue the momentum of the commemoration, the following Department of Defense Bicentennial Year Themes have been established:

1990: The Establishment of the Judiciary. The first session of the United States Supreme Court was held in 1790. This year's commemorative theme will focus on the establishment of the federal judiciary and the relationship between the Constitution and the Uniform Code of Military Justice .

1991: The Adoption of the Bill of Rights. The first ten amendments to the Constitution, known as the Bill of Rights, were ratified by Congress in 1791. This year focuses on the ratification of the Bill of Rights, the amendment process which makes the Constitution a "living document," and on Soldier-Statesman leadership and service in the Congress during the last two centuries.

INTRODUCTION

The first two years of the five-year Bicentennial of the United States Constitution focused on the drafting, framing and ratification of the Constitution. The Founding Fathers, with their precious foundation emplaced, turned next to the establishment of a national government. Significantly, these same patriots became well-qualified candidates to occupy positions in the new government. Of the twenty-three Soldier-Statesmen who signed the Constitution, eleven became Senators, seven entered the House of Representatives, eight became governors, two became cabinet members, two became foreign ministers and one became the first President of the United States.

In 1989, we celebrated the bicentennial of the establishment of the legislative and executive branches of government. This year we commemorate the bicentennial of the establishment of the judicial branch of government and the relationship between the Constitution and the Uniform Code of Military Justice. Throughout the commemorative period, the Department of Defense has been recognized as the standard-setter for bicentennial programs and activities by the National Commission. While our past successes are praised, I encourage your continuing participation and support in honoring the document we have sworn to support and defend.

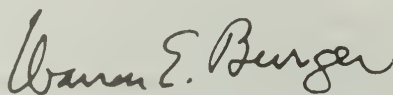
Members of the Armed Forces can take special pride in the fact that they are linked with the Executive, Legislative, and Judicial branches of our government by this common bond to support and defend the Constitution of the United States.



M. P. W. Stone
Secretary of the Army

Telling the great story of our Constitution, especially in the education of young Americans, must be the first order of business as America carries on during the next two years with the commemoration of that Constitution honoring the beginnings of our dual judicial system and the adoption of the Bill of Rights. This focus represents the wisest investment in a future whose generations will continue to understand and appreciate, as well as enjoy, those blessings which have been bestowed upon us during the last two centuries. These freedoms unleashed the talents and energies of a whole people so that we grew from a cluster of small colonies to a world power in a century and a quarter from our beginnings.

The Department of Defense and the Bicentennial Commission have worked together in telling this magnificent story. This book is a useful tool for all who teach.



Warren E. Burger
Chairman of the Commission on
the Bicentennial of the United
States Constitution



WARREN EARL BURGER, Chief Justice of the United States 1969-1986. Chairman of the Judicial Conference of the United States and Chairman of the Federal Judicial Center; by tradition, Chancellor of the Smithsonian Institution, and Trustee and Chairman of the National Gallery of Art 1969-1986. Chairman of the Commission on the Bicentennial of the United States Constitution 1985--. Chancellor of The College of William and Mary, Williamsburg, Virginia; Chancellor Emeritus of the Smithsonian Institution; Life Trustee of the National Geographic Society; Honorary Chairman of the National Judicial College at the University of Nevada; the National Center for State Courts, Williamsburg, Virginia; President Emeritus, Bentham Club, London, 1971-1972; Honorary Chairman, Institute of Judicial Administration; Supreme Court Historical Society. Honorary Benchers, Middle Temple, London, and Kings Inn, Dublin.

Chief Justice Burger was born September 17, 1907, in St. Paul, Minnesota, and spent his early years on a farm at Stacy, Minnesota, and later lived in St. Paul, Minnesota. He did pre-legal studies in night classes at the University of Minnesota, and graduated from the St. Paul (now William Mitchell) College of Law, *magna cum laude*, in 1931. He was appointed to the faculty of the school in 1931. He entered practice with the firm of Boyensen, Otis, Brill & Faricy, and became a full partner in 1933. He engaged in private practice in civil and administrative law 1931-1953. In St. Paul he served as President of the Council of Human Relations and of the Governor's Interracial Commission.

In 1953, President Eisenhower appointed him Assistant Attorney General of the United States, (Civil and International Litigation Division) Department of Justice. In 1956, President Eisenhower appointed him to the United States Court of Appeals (District of Columbia Circuit). In May 1969, President Nixon nominated him Chief Justice of the United States, and he served until September 1986. He has received honorary Doctorates of law and humanities from many American and other colleges and universities. In addition to numerous honors, Chief Justice Burger has also received the following awards: the George Washington Award, the Thomas Jefferson Award of the University of Virginia, the John Marshall Award, the James Madison Award, the Sylvanus Thayer Award of West Point Alumni, the Charles Evans Hughes Medal of the Conference of Christians and Jews, the Franklin Medal, the Gold Medal of the American Bar Association, the James Smithson Medal, and the Presidential Medal of Freedom. Additionally, Chief Justice Burger has received honors from the American Philosophical Society, the Smithsonian Institution, the Freedoms Foundation at Valley Forge, the College of William and Mary and Princeton University.

Chief Justice Burger was appointed Chairman of the National Commission on the Bicentennial of the United States Constitution by President Reagan and continues to serve in that position.



CHAPTER I

COMMEMORATIVE DATES

Chronology Of Bicentennial Dates

- January 25, 1990: New Hampshire ratifies the Bill of Rights.
- January 28, 1990: Delaware ratifies the Bill of Rights.
- February 2, 1990: The Supreme Court convenes for the first time.
- February 24, 1990: New York ratifies the Bill of Rights.
- March 10, 1990: Pennsylvania ratifies the Bill of Rights.
- May 29, 1990: Rhode Island ratifies the Constitution by a vote of 34 to 32, the last of the original states to do so.
- June 7, 1990: Rhode Island ratifies the Bill of Rights.
- June 20, 1990: The House of Representatives votes 32 to 29 to locate the national capitol on a ten-mile square plot on the Potomac River and designates Philadelphia as the temporary capitol.

September 17-23, 1990: Constitution Week

- December 6, 1990: Congress moves from New York to the temporary capitol of Philadelphia.
- January 10, 1991: Vermont ratifies the Constitution.
- March 4, 1991: Vermont is admitted as the fourteenth state in the Union.

September 17-23, 1991: Constitution Week

- November 3, 1991: Vermont ratifies the Bill of Rights.
- December 15, 1991: Virginia ratifies the Bill of Rights and the amendments become part of the United States Constitution.



CHAPTER II

The Establishment of the Judiciary

- The Development of the Federal Court System
- The Supreme Court of the United States
- The United States Court System
- Current Justices of the Supreme Court
- Past Justices of the Supreme Court

The Development of the Federal Court System

As the first justices of the Supreme Court were preparing to undertake their duties, President Washington wrote to them expressing his feelings about the importance of the job they were about to begin. "I have always been persuaded that the stability and success of the National Government and consequently the happiness of the People of the United States, would depend in a considerable degree on the Interpretation and Execution of its Laws," Washington observed. "In my opinion, therefore, it is important that the Judiciary System should not only be independent in its operations, but as perfect as possible in its formation."

Article III

The founders of the new nation believed that the establishment of a national judiciary was one of their most important tasks. Yet Article III of the Constitution of the United States, the provision that deals with the judicial branch of government, is markedly shorter than Articles I and II which created the legislative and executive branches. Moreover, at the Constitutional Convention the delegates spent relatively little time discussing judicial power. Instead they left the resolution of those issues on which they could not easily agree to the Congress that would come into being after the new form of government was approved. Thus the story of the development of judicial power under the Constitution concerns much more than an understanding of the text of Article III.

The Constitution had not sprung full blown from the crucible of revolution but instead resulted from a growing recognition throughout the states that the Confederation was inadequate and that a stronger national government was needed if the United States was to survive. The lack of an independent judiciary to decide controversies of a national and international nature contributed to the Confederation's weakness. Congress had set up the very limited Court of Appeals in Cases of Capture to hear disputes involving ships seized during the Revolution, but it did not meet regularly and had no power to enforce its decrees.

Thus the concept of a national judiciary was a new one in the late 1780's and its embodiment in Article III a cause of much concern. The structure of the judiciary was a rock upon which the Constitution could founder when it went before the states for ratification; hence Federalist efforts had focussed on creating a constitutional framework that would give wide latitude to Congress to flesh out the particulars of a court system. By creating a structure that left all the details of form and content to congressional discretion, the Federalists hoped to allay---or at least postpone until after the Constitution was safely ratified--Anti-Federalists fears that the national judiciary would swallow up the state courts.

Article III of the Constitution created a federal "Judicial Power" but defined it in only the broadest of terms. Section 1 provided that power "shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Section 2 specified the types of cases to which the federal judicial power extended, giving the Supreme Court original jurisdiction to hear "all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party." In all other categories enumerated in the section, cases would originate in lower courts but could be brought to the Supreme Court on

appeal, subject to "such exceptions, and under such Regulations as the Congress shall make." Hence the Constitution left to congressional discretion the content and extent of the appellate jurisdiction of the Supreme Court, and by implication the entire jurisdiction of any lower federal courts that might be established.

The text of Article III set down certain basic principles, but the debates during the ratification process indicated that in many states there was dissatisfaction with the broad language of the judicial article and a strong demand for some additional constitutional safeguards. In his *Federalist* No. 78, Alexander Hamilton downplayed the importance of the federal judiciary by denominating it the "least dangerous" of the three branches; in No. 80 he reminded his readers that any inconvenience suggested by the generality of the plan should not condemn it, as

the national legislature will have ample authority to make such *exceptions*, and to prescribe such regulations as will be calculated to obviate or remove these inconveniences. The possibility of particular mischiefs can never be viewed, by a well-informed mind, as a solid objection to a general principle, which is calculated to avoid general mischiefs and to obtain general advantages.

Ideas as to what those inconveniences might be, and how best to deal with them began to circulate well before any lawmaker had so much as dipped his quill into the inkwell. Soon after the Constitutional Convention adjourned in September 1787, people were expressing fears that an extensive federal court system would prove too expensive, drag hapless defendants hundreds of miles from home, and undermine state sovereignty and individual liberties.

Anti-Federalist forces led by two Virginians--George Mason, who had refused to sign the Constitution, and Richard Henry Lee, who had refused to attend the Constitutional Convention--began an immediate campaign in the press and in the state ratifying conventions to have the federal judicial power amended before ratification of the Constitution. Recalling the harsh treatment meted out by colonial governors and British Vice-Admiralty judges in the years prior to the Revolution, Anti-Federalists were particularly concerned with protecting the rights of the criminally accused. They called for a bill of rights to include protection of the right to a grand jury indictment, to a speedy and public trial by an impartial jury drawn from the vicinage (i.e., vicinity in which the crime was committed), to know the cause and nature of accusations, to confront witnesses and compel them to appear in court, to assistance of counsel, to due process of law, and to protection against self-incrimination, double jeopardy, excessive bail, fines, and cruel and unusual punishment. In non-criminal cases, Anti-Federalist also wanted as much jury protection for the individual as possible: jury trials in all civil cases, protection for jury verdicts by limiting appellate courts' power to review juries' factual determinations, and the right to due process under the law.

In addition to a written guarantee of individual rights, Anti-Federalists favored a number of explicit proposals to limit the power of the federal courts. At least half the state ratifying conventions recommended limiting or abolishing diversity jurisdiction--a jurisdiction based solely on the fact that the parties are citizens of different states. A proposal to restrict appeals to the Supreme Court to cases involving only large sums of money also gained considerable support during the ratification process of 1787-1788. Another Anti-Federalist proposal, which came to have support among some cost-conscious Federalists as well, was the use of state courts as lower federal courts. Roger Sherman of Connecticut, a member of the Constitutional Convention and soon to be a member of the First Congress,

endorsed just such an idea in his essay "A Citizen of New Haven," published on January 1, 1787. Even such a leading Federalist as James Madison, on the eve of his election to the House of Representatives in January 1789, acknowledged the need for some sort of bill of rights to protect individual liberties and some sort of restriction on appeals in the federal courts. As early as March 15, 1789, the staunch Massachusetts Federalist Fisher Ames reported from New York to a friend in New England that a judicial plan was being discussed by three or four persons that would limit diversity suits and suits involving foreigners to cases where the sum in controversy was over five hundred dollars. He further commented that the great objectives of low cost and allaying state-federal jealousies might best be accomplished by narrowing rather than expanding federal jurisdiction.

The Judiciary Act of 1789

It fell to the First Congress to interpret the various sections of Article III and to take into consideration the amendments demanded by several states as the price of ratification. By drawing up the Bill of Rights and enacting the Judiciary Act of 1789, the First Congress met the concerns of many. It was able to establish a working judicial system that pleased no one completely, but which could be changed as experience showed it to be necessary or desirable.

While the House of Representatives began its work on the first important piece of financial legislation, a revenue system, the Senate, acknowledging the pivotal role that the federal court system must play in the new government, began its legislative work by appointing a committee to prepare a judiciary bill. The committee as formed on April 7, 1789, consisted of one Senator from each state: Oliver Ellsworth of Connecticut, William Paterson of New Jersey, Caleb Strong of Massachusetts, Richard Bassett of Delaware, William Maclay of Pennsylvania, William Few of Georgia, Paine Wingate of New Hampshire and Richard Henry Lee of Virginia. Charles Carroll of Maryland and Ralph Izard of South Carolina, arriving late for the opening of Congress, were added to the roster six days later.

Only Ellsworth, Paterson and Strong, of the ten committee members on whom the judiciary's fate depended, could claim any sizable technical legal expertise; but most had a strong political and legislative background. Six had been members of the Continental Congress (Ellsworth, Few, Carroll, Izard, Wingate, and Lee). Five had been members of the Constitutional Convention (Ellsworth, Strong, Paterson, Bassett, and Few). Five had been members of their state ratifying convention (Ellsworth, Strong, Few, Bassett, and Izard). Nearly all had held a variety of state offices. Politically all were Federalists with the exception of Richard Henry Lee, a leading Anti-Federalist and a harsh critic of an expansive federal judiciary, and William Maclay, who was elected by Pennsylvania to represent the state's agricultural interests.

The combination of extensive legal experience and firsthand knowledge of the Constitution seem to have been a key factor in determining who would write the bill; for it was the three men with both characteristics---Ellsworth, Paterson, and Strong---in whose handwriting the first draft appeared. Ellsworth, in particular, dominated the proceedings, from the first page of handwritten text, through the debates, to the final conference with the House. "This vile bill is a child of his, fumed the irascible diarist, William Maclay," and he defends it with the care of a parent, even in wrath and anger." Maclay's disgruntlement aside, Ellsworth was eminently qualified for the job of creating a bill that, after all the politics were exhausted, still had perforce to deal with a multitude of arcane details. Ellsworth's

background included service on the Continental Congress Committee on Appeals (giving him firsthand experience with the problems of appellate jurisdiction in a federal system); he had also been a member of the Governor's Council and a state court judge in Connecticut, as well as a member of the Constitutional Convention and the Connecticut ratifying convention. Caleb Strong had served in the Constitutional Convention and the Massachusetts ratifying convention. William Paterson had been attorney general of New Jersey and had also been present at Philadelphia for the drafting of the Constitution.

Within three weeks the committee had drafted a set of guiding principles that clearly reflected the concerns raised during the ratification debate over limiting federal court jurisdiction. The resolutions indicated that the committee favored a small judiciary and had already adopted the idea of limiting non-criminal cases tried in federal courts to those involving large sums of money. The structure created by the committee included a Supreme Court and two levels of lower federal courts. The draft bill specified a six-judge Supreme Court, to convene twice yearly in the national capital. During the months when they were not sitting as the Supreme Court, the justices were made responsible for hearing trials and appeals on circuit in the several states, sitting in pairs in conjunction with a district court judge. The district court judges would come from the courts established in each state as federal trial courts, responsible primarily for hearing admiralty cases. The circuit court's jurisdiction in non-criminal cases was restricted in most instances to cases of at least three hundred dollars or more. Appeals to the Supreme Court could only be made in cases involving amounts above two thousand dollars. Finally, the committee gave the Supreme Court explicit powers of judicial review over state supreme court decisions involving federal law. There seemed to have been a consensus that only cases involving substantial amounts of money should be subject to federal appellate review unless an interpretation of the federal Constitution, a statute or a treaty were in question.

The drafting efforts of Paterson, Ellsworth, and Strong culminated in a first reading before the full Senate on June 12. When printed for distribution and Senate debate, the bill ran sixteen pages. District court jurisdiction, which was to give rise to the greatest debate in both houses, had been fleshed out in more detail. In addition to exclusive original jurisdiction over all civil admiralty and maritime cases, district courts were also given jurisdiction over some other lesser federal matters. The committee made trial by jury protections explicit in several situations, among them criminal cases and suits brought by the United States for amounts over one hundred dollars. Similarly, jury trials were required in civilian and criminal cases in the circuit courts and in original Supreme Court cases involving individuals who were United States citizens. It is clear that Richard Henry Lee wanted his jury trial protections incorporated at every possible point.

After agreeing to report the committee bill, Richard Henry Lee then leveled an Anti-Federalist attack at the jurisdiction of the district courts. On the opening day of debate, June 22, Lee moved to limit the district courts to admiralty jurisdiction. Simply stated, Lee's proposed amendment called for the judiciaries of the several states to serve as lower federal courts in most instances. While many people believed that state courts could handle the business that might be assigned to lower federal courts, opponents of this view argued that state control over the application of federal law would result in diminished popular confidence that national laws were being executed impartially. State judges who held office only for specified terms could not be relied upon to be independent, and appeals to the Supreme Court would have to be allowed in large numbers of cases to ensure the enforcement of

national interests. Moreover, some argued that as soon as state judges exercised federal powers they would become federal judges, with life tenure and secure salaries as mandated by the second clause of Article III section 1. Why Lee chose to introduce his amendment after apparently having gone along with the committee in setting up a lower court system is not known. Perhaps Lee felt obligated to bring this proposal to the attention of the full Senate because he had been so directed by the Virginia legislature. The oddity is increased by the fact that Virginia had just enacted a restriction on its courts forbidding them to try cases arising under the laws of the United States.

Even Maclay, who had been on the committee with Lee and who would join Lee in voting against the bill in its final form, did not support Lee on this point. Maclay joined with the Federalists in believing that the Constitution's scheme would be thwarted unless the federal courts could adjudicate other issues besides admiralty---such as taxation, duties and imports, naturalization, coinage, counterfeiting, and treason. He also made the longstanding Federalist point that the state judges would not enforce federal laws. William Paterson may have advanced some of the additional reasons against using state courts as federal tribunals: his personal notes reflect that he thought the elective office of most state judges was not compatible with the constitutional requirements of tenure during good behavior and fixed salaries. Paterson agreed that state judges should not be relied upon to enforce federal criminal laws or the collection of federal revenue. The Federalist majority, many of whom had already rejected the notion of state courts as lower federal courts in their correspondence with constituents, followed this view.

The Bill of Rights

At the same time that the Senate was considering the judiciary bill, the House had taken up the subject of a bill of rights. As originally proposed by James Madison on June 6, it included several amendments pertaining to the judicial system. Deemed most important were those protecting the rights of the criminally accused: the right to grand jury indictment, to a speedy and public trial by an impartial jury of the vicinage, to know the cause and nature of accusations, to confront witnesses and have compulsory process to produce them, to assistance of counsel, to due process, and to protection against self-incrimination, double jeopardy, excessive bail, fines, and cruel and unusual punishment. With the exception of the jury of the vicinage, which was struck by the Senate, all of these became parts of the Fifth, Sixth and Eighth Amendments. Madison's list also included the three judicial system amendments considered most important by the Anti-Federalists: a guarantee of jury trial in common law (which meant that jury decisions would not be easily overturned); and a monetary restriction on all appeals to the Supreme Court. The Senate removed this last provision, but the first two became the Seventh Amendment. The Senate also voted down a requirement for unanimous jury verdicts and the grant of a right to make jury challenges. Moreover, that body refused to agree to what Madison considered the most important of all: a prohibition against state violations of fundamental rights, including trial by jury.

Although Madison had received House approval of his amendments as the only ones to be discussed, members continued to attempt additions. The most extreme judicial amendments offered were those of Thomas Tudor Tucker of South Carolina to limit lower federal courts to admiralty jurisdiction and to prohibit any federal jurisdiction over diversity cases, suits involving foreigners, and suits involving land grants from two different states. Unsuccessful in that effort, Tucker, on the

last day of debate again tried, but failed, to limit the lower courts to hearing only admiralty cases.

Having postponed consideration of the judiciary bill until after passage of a bill of rights, the House began debate on the former on August 27. Despite heavy speculation that Madison would lead the attack he failed to do so and few substantive changes were made. Tucker renewed his attempts, made without success during the bill of rights debates, to eliminate the district courts. He was joined in this by Samuel Livermore of New Hampshire; their proposal engendered more debate than any other issue, but ultimately went down to defeat. In his closing speech on the bill, delivered on September 17, Madison summed up the views of most of his colleagues that the bill, however imperfect, was the best they could get at this late date in the session, and that it could always be changed as experience proved necessary.

The only direct evidence of interaction between the two houses as they considered the judiciary bill and the bill of rights is a letter of September 24 from Madison to Edmund Pendleton, discussing the bill of rights. "It will be impossible I find to prevail on the Senate to concur in limitation on the value of appeals to the Supreme Court," complained Madison,

"which they say is unnecessary, and might be embarrassing in questions of national or Constitutional importance in their principle, tho' of small pecuniary amount. They are equally inflexible in opposing a definition of the locality of Juries. The vicinage they contend is either too vague or too strict, too vague if depending on limits to be fixed by the pleasure of the law, too strict if limited to the County... The Senate suppose also that the provision for vicinage in the Judiciary bill, will sufficiently quiet the fears which called for an amendment on this point."

On September 19 the Senate had proposed a compromise to the judiciary bill which allowed the trial jury in capital cases to be drawn from the county in which the crime was committed. It was adopted by the House on September 21, the same day that a joint conference committee of Representatives Madison, Sherman and Vining, and Senators Ellsworth, Paterson and Carroll was appointed to resolve the differences over the bill of rights. Three days later on September 24, as the conference committee was agreeing to limit constitutional protection to a jury of the district, President Washington signed the Judiciary Act into law. Although little hard evidence exists to suggest that the Judiciary Act and the Bill of Rights were deliberately fashioned to complement each other, the fact is that together they took care of most Anti-Federalist concerns about the judiciary under the Constitution.

Probably none of the Judiciary Act's provisions captured the spirit of balancing state and federal interests that informed the creation of the Act better than Section 34. The section stipulated, simply enough,

(t)hat the laws of the several States except where the Constitution, treaties or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the Courts of the United States in cases where they apply.

While the First Congress may well have intended "laws of the several states" merely as a shorthand for all the laws then in effect, including the unwritten common law, it is equally possible that the framers meant "laws" to refer only to

statutes, leaving the federal courts free to fashion common law remedies of their own. Even if the drafters did intend that "laws" include the common law of the several states, they may have wished merely to permit, not to compel, the federal trial courts to apply state common law. Still another possibility is that the bill's framers deliberately worded the provision vaguely so as to leave its meaning open to future judicial interpretation. Its literal meaning notwithstanding, the thirty-fourth section was written, like the other section, in the spirit of reconciling national interests with those of the various states. The enactment of the Judiciary Act of 1789 marked the culmination of an effort to implement federal law adequately and yet in a manner least detrimental to state policies and practices.

Conclusion

The passage of the Judiciary Act of 1789 was crucial to the growth of the federal judiciary. The remarks of Associate Justice Samuel Chase, in 1799 opinion, sum up its importance. "The notion has frequently been entertained," noted Chase,

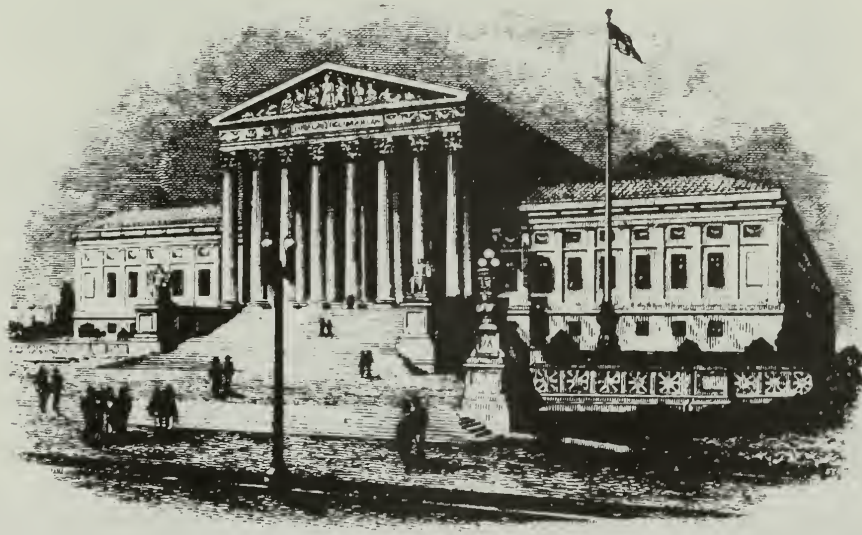
"that the federal courts derive their judicial power immediately from the Constitution; but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us or to any other court, it still remains at the legislative disposal."

The generality of Article III of the Constitution raised questions that Congress had to address in the Judiciary Act of 1789. These questions had no easy answers, and the solutions to them were achieved politically. The First Congress decided that it could regulate the jurisdiction of all federal courts, and in the Judiciary Act of 1789 Congress established with great particularity a limited jurisdiction for the district and circuit courts, gave the Supreme Court the original jurisdiction provided for in the Constitution, and granted the Court appellate jurisdiction in cases from the federal circuit courts and from state courts where those courts' rulings had rejected federal claims. The decision to grant federal courts a jurisdiction more restrictive than that allowed by the Constitution represented a recognition by the Congress that the people of the United States would not find a full-blown federal court system palatable at that time.

For nearly all of the next century the judicial system remained essentially as established by the Judiciary Act of 1789. Only after the country had expanded across a continent and had been torn apart by civil war were major changes made. A separate tier of appellate circuit courts created in 1891 removed the burden of circuit riding from the shoulders of the Supreme Court justices but otherwise left intact the judicial structure.

With minor adjustments it is the same system we have today. Congress has continued to build on the interpretation of the drafters of the first judiciary act in exercising a discretionary power to expand or restrict federal court jurisdiction. While opinions as to what constitutes the proper balance of federal and state concerns vary no less today than they did nearly two centuries ago, the fact that today's federal court system closely resembles the one created in 1789 suggests that the First Congress performed its job admirably.

Written by David Eisenberg, Christine R. Jordan, Maeva Marcus, and Emily F. Van Tassel and reprinted from "This Constitution: A Bicentennial Chronicle," Winter 1987. Published by Project '87 of the American Historical Association and the American Political Science Association.



The Supreme Court of the United States

"Equal Justice Under Law" - These words, written above the main entrance to the Supreme Court Building, express the ultimate responsibility of the Supreme Court of the United States. The Court is the highest tribunal in the Nation for all cases and controversies arising under the Constitution or the laws of the United States. As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under law, and, thereby, also functions as guardian and interpreter of the Constitution.

The Supreme Court is "distinctly American in concept and function," as Chief Justice Charles Evans Hughes observed. Few other courts in the world have the same authority of constitutional interpretation and none have exercised it for as long or with as much influence. A century and a half ago, the French political observer Alexis de Tocqueville noted the unique position of the Supreme Court in the history of nations and jurisprudence. "The representative system of government has been adopted in several states of Europe," he remarked, "but I am unaware that any nation of the globe has hitherto organized a judicial power in the same manner as the Americans...a more imposing judicial power was never constituted by any people."

The unique position of the Supreme Court stems, in large part, from the deep commitment of the American people to the Rule of Law and to constitutional government. The United States has demonstrated an unprecedented determination to preserve and protect its written Constitution, thereby providing the American "experiment in democracy" with the oldest written constitution still in force.

The Constitution of the United States is a carefully balanced document. It is designed to provide for a national government sufficiently strong and flexible to meet the needs of the Republic, yet sufficiently limited and just to protect the guaranteed rights of citizens; it permits a balance between society's need for order and the individual's right to freedom. To assure these ends, the Framers of the Constitution created three independent and coequal branches of government. That this Constitution has provided continuous democratic government through the periodic stresses of nearly two centuries illustrates the genius of the American system of government.

The complex role of the Supreme Court in this system derives from its authority to invalidate legislation or executive actions which, in the Court's considered judgement, conflict with the Constitution. This power of "judicial review" has given the Court a crucial responsibility in assuring individual rights, as well as in maintaining a "living Constitution" whose broad provisions are continually applied to complicated new situations.

While this function is not explicitly provided in the Constitution, it had been anticipated before the adoption of that document. Prior to 1789, state courts had already overturned legislative acts which conflicted with state constitutions. Moreover, many of the Founding Fathers expected the Supreme Court to assume this role in regard to the Constitution; Alexander Hamilton and James Madison, for example, had underlined the importance of judicial review in the Federalist papers, which urged adoption of the Constitution.

Hamilton had written that through the practice of judicial review the Court ensured that the *will of the whole people*, as expressed in their Constitution, would be supreme over the *will of a legislature*, whose statutes might express only the temporary will of part of the people. And Madison had written that constitutional interpretation must be left to the reasoned judgment of independent judges, rather than to the tumult and conflict of the political process. If every constitutional question were to be decided by public political bargaining, Madison argued, the Constitution would be reduced to a battleground of competing factions, political passion and partisan spirit.

Despite this background the Court's power of judicial review was not confirmed until 1803, when it was invoked by Chief Justice John Marshall in *Marbury v. Madison*. In this decision, the Chief Justice asserted that the Supreme Court's responsibility to overturn unconstitutional legislation was a necessary consequence of its sworn duty to uphold the Constitution. The oath could not be fulfilled any other way. "It is emphatically the province of the judicial department to say what the law is," he declared.

In retrospect, it is evident that constitutional interpretation and application were made necessary by the very nature of the Constitution. The Founding Fathers had wisely worded that document in rather general terms, leaving it open to future elaboration to meet changing conditions. As Chief Justice Marshall noted in *McCulloch v. Maryland*, a constitution that attempted to detail every aspect of its own application "would partake of the prolixity of a legal code and could scarcely be embraced by the human mind... Its nature, therefore, requires that only its great outlines should be marked, its important objects designated and minor ingredients which compose those objects be deduced from the nature of the objects themselves."

The Constitution limits the Court to dealing with "Cases" and "Controversies", John Jay, the first Chief Justice, clarified this restraint early in the Courts' history by declining to advise President George Washington on the constitutional implications of a proposed foreign policy decision. The Court does not give advisory opinions; rather, its function is limited only to deciding specific cases.

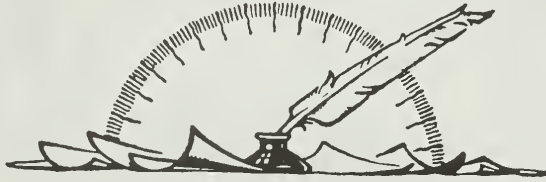
The Justices must exercise considerable discretion in deciding which cases to hear, since 4,500 civil and criminal cases are filed in the Supreme Court each year from the various state and federal courts. The Supreme court also has "original jurisdiction" in a very small number of cases arising out of disputes between States or between a State and the Federal Government.

When the Supreme Court rules on a constitutional issue that judgement is virtually final; its decisions can be altered only by the rarely used procedure of constitutional amendment or by a new ruling of the court. However, when the Court interprets a statute, new legislative action can be taken.

Chief Justice Marshall expressed the challenge which the Supreme Court faces in maintaining free government by noting: "We must never forget that it is a *constitution* we are expounding...intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs."

Prepared by the Supreme Court of the United States, and published with the cooperation of the Supreme Court Historical Society.

The United States Court System



The United States has a dual system of federal and state courts. Federal courts receive their authority from the U.S. Constitution and federal laws. State courts receive their powers from state constitutions and laws.

Federal Courts. Federal courts handle both criminal and civil cases involving the Constitution or federal laws, and cases in which the U.S. government is one of the sides. They also try cases between individuals or groups from different states, and cases involving other countries or their citizens. They handle *maritime* (sea) cases, bankruptcy actions, and cases of patent and copyright violation.

The federal court system includes district courts, courts of appeals, and the Supreme Court of the United States.

District courts are federal courts of *original jurisdiction*--that is, they are the first courts to hear most cases involving a violation of federal law. The United States and its possessions have about 95 district courts. Each state has at least one such court.

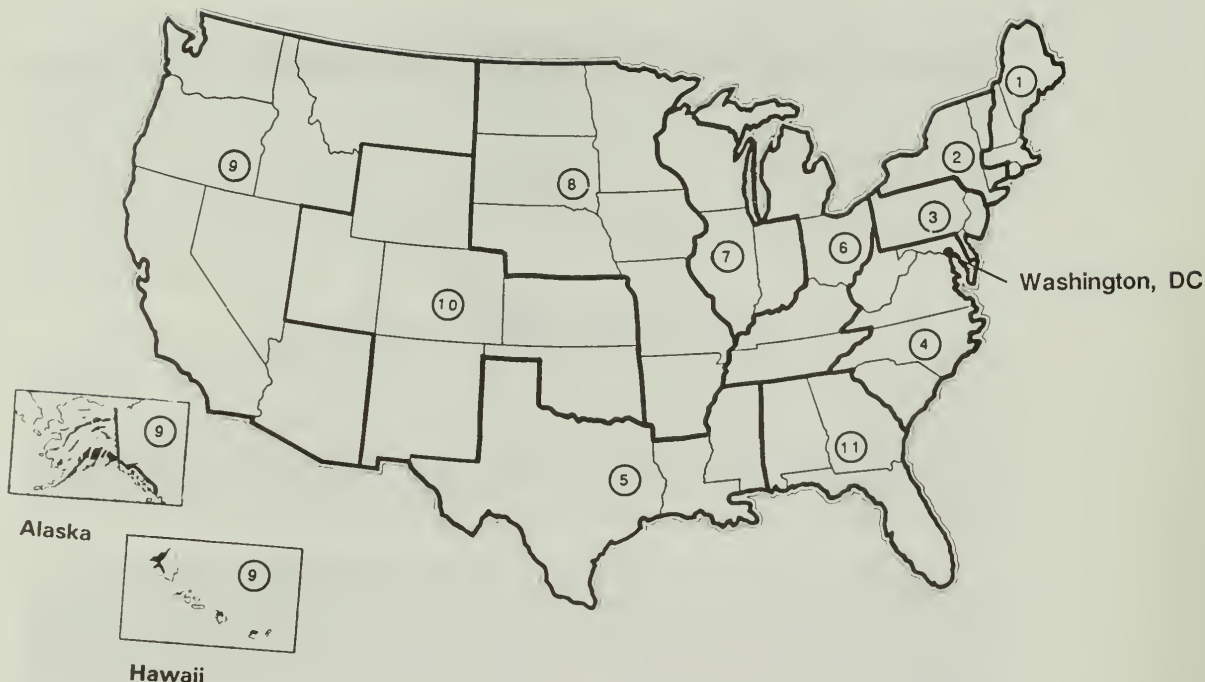
Courts of appeals try federal cases on appeal from district courts. They also review the decisions made by such federal agencies as the Securities and Exchange Commission and the National Labor Relations Board.

The U.S. Courts of Appeals rank next to the Supreme Court of the United States as a reviewing authority. Several states also have courts of appeals.

The U.S. Courts of Appeals hear most appeals from district courts and federal administrative agencies. They also review the decisions of some agencies. In some cases, the party who feels wronged has a right to appeal directly to the Supreme Court of the United States. In a few cases, the parties have a right to ask the Supreme Court to review a decision of a court of appeals. But in most cases, the Supreme Court only reviews cases that present an important question of law.

In the early days in the United States, federal judges traveled from place to place to try cases and to hear appeals. The route which was assigned to the court was called the *circuit*. Today the circuits are geographical areas. Each circuit has one court of appeals.

The circuits are numbered 1 through 11 and are shown on the following page.



A twelfth, unnumbered circuit covers only the District of Columbia. The First Circuit includes Puerto Rico, the Third includes the Virgin Islands, and the Ninth includes Alaska and Hawaii. The judges of the First, Third, and Ninth circuits travel to these places to hear cases. A special United States Court of Appeals for the Federal Circuit has nationwide jurisdiction. It specializes in cases involving patents and claims against the federal government.

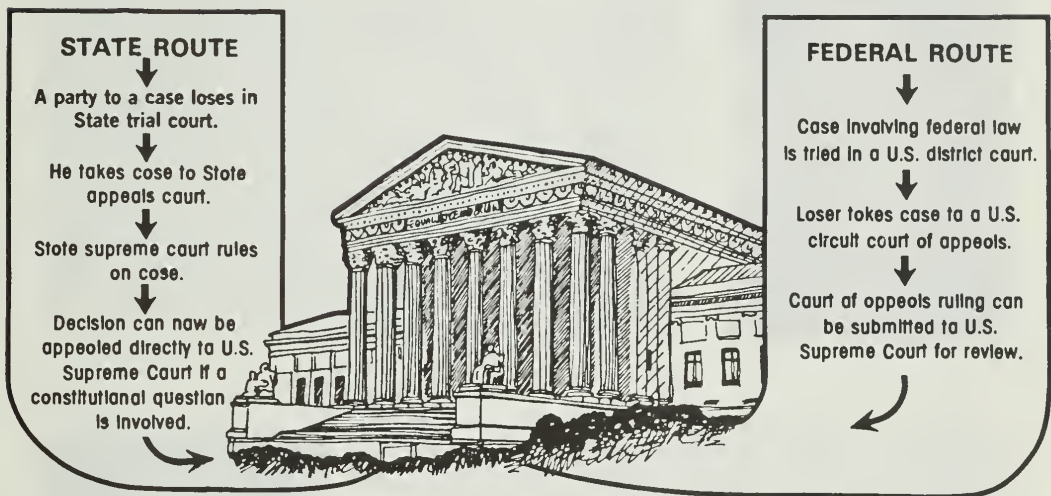
Only three judges ordinarily sit to decide each case, although more than three judges are assigned to some circuits. A justice of the Supreme Court is assigned to each circuit as the Circuit Justice.

The Supreme Court of the United States is the highest court in the nation. A person who loses a case either in a federal court of appeals or in the highest state court may appeal to the Supreme Court, but it may refuse to review many cases. In addition to its appellate jurisdiction, the court has original jurisdiction over cases involving two states or representatives of other countries.

The federal court system also includes several specialized courts. The United States Claims Court hears cases involving claims against the federal government. The Court of International Trade settles disputes over import duties. Taxpayers ordered to pay additional federal income taxes may appeal to the Tax Court of the United States. Military courts, called *courts-martial*, have jurisdiction over offenses committed by members of the armed forces. The Court of Military Appeals reviews court-martial rulings.

There are two roads by which a case may reach the Supreme Court. These roads are graphically displayed on the following page.

Two Main Roads to the Supreme Court



State Courts. The lowest state courts are courts of limited or special jurisdiction. Some of these courts handle a variety of minor criminal and civil cases. Such courts include *police courts*, *magistrate's courts*, or *county courts*, and *justices of the peace*. Other lower courts specialize in only one type of case. For example, *small-claims courts* try cases which involve small amounts of money. *Probate* or *surrogate courts* handle wills and disputes over inheritances. Other specialized courts include *courts of domestic relations*, *juvenile courts*, and *traffic courts*.

Courts of general jurisdiction rank above courts of limited jurisdiction. These higher courts are known as *circuit courts*, *superior courts*, or *courts of common pleas*. About half the states have intermediate appeals courts, which hear appeals from courts of general jurisdiction. In some states, courts of general jurisdiction and appellate courts handle both criminal and civil cases. Other states have separate divisions on both levels. The highest court in most states is its supreme court.

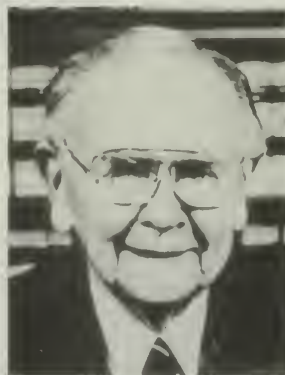
Reprinted from "Lessons on the Constitution" by John J. Patrick and Richard C. Remy for Project '87.

Current Justices of the Supreme Court



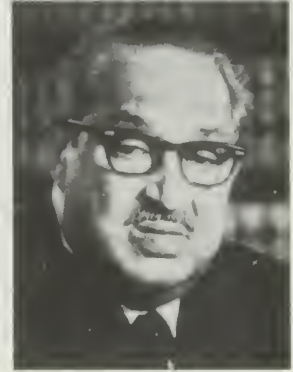
William H. Rehnquist, Chief Justice of the United States, was born in Milwaukee, Wisconsin, October 1, 1924. He married Natalie Cornell and has three children--James, Janet and Nancy. From 1943-46, he served in the U.S. Army Air Force. He received a B.A., M.A. and LL.B. from Stanford University and an M.A. from Harvard University. He served as a law clerk for Justice Robert H. Jackson of the Supreme Court and practiced law in Phoenix, Arizona, from 1953-69. He served as Assistant Attorney General, Office of Legal Counsel from 1969-71. President Nixon nominated him to the Supreme Court, and he took his seat as an Associate Justice on January 7, 1972. Nominated as Chief Justice by President Reagan, he assumed that office on September 26, 1986.

William J. Brennan, Jr., Associate Justice, was born in Newark, New Jersey, April 25, 1906. In 1928, he married the late Marjorie Leonard and has three children--William J., III, Hugh Leonard, and Nancy. On March 8, 1983, he married Mary Fowler. He received his B.S. from the University of Pennsylvania in 1928 and his LL.B. from Harvard Law School in 1931. He practiced law from 1931-42 and 1945-49. He served during World War II as an officer of the General Staff Corps, U.S. Army, with the rank of colonel. He first served on the Bench in the New Jersey Superior Court and was later appointed Associate Justice of the New Jersey Supreme Court. He was nominated to the United States Supreme Court by President Eisenhower and took his seat October 16, 1956.



Byron R. White, Associate Justice, was born in Fort Collins, Colorado, June 8, 1917. He married Marion Lloyd Stearns in 1946 and has two children--Charles Byron and Nancy Pitkin. He received a B.A. from the University of Colorado, was a Rhodes Scholar, Oxford, England, and received his LL.B. from Yale Law School. From 1942-46, he served in the U.S. Naval Reserve. He then worked as a law clerk to Chief Justice Vinson at the Supreme Court of the United States during the 1946-47 Term and practiced law in Denver, Colorado from 1947-60. From 1961-62, he was Deputy Attorney General of the United States. He was nominated to the Supreme Court by President Kennedy and took his seat April 16, 1962. His background includes membership on the College All-American Football Team 1937 and playing professional football with the Pittsburgh Steelers and the Detroit Lions; in 1954, he was named to the National Football Hall of Fame.

Thurgood Marshall, Associate Justice, was born in Baltimore, Maryland, July 2, 1908. He married Cecilia A. Suyat and has two children--Thurgood, Jr. and John William. He did his undergraduate study at Lincoln University and in 1933 received his LL.B. from Howard University Law School in Washington, D.C. He entered private practice in Baltimore and became counsel for the Baltimore branch NAACP in 1934. In 1936, he joined the organization's national legal staff and in 1938 was appointed Chief Legal Officer. From 1940 until his appointment to the Federal Bench, he served as Director-Counsel of the NAACP Legal Defense and Educational Fund. He served as a Judge of the United States Court of Appeals for the Second Circuit from 1961-65 and as Solicitor General of the United States from 1965-67. President Johnson nominated him to the Supreme Court, and he took his seat October 2, 1967.



Harry A. Blackmun, Associate Justice, was born in Nashville, Illinois, November 12, 1908. He married Dorothy E. Clark in 1941 and has three children--Nancy Clark, Sally Ann, and Susan Manning. He received his A.B. and LL.B. from Harvard and served as law clerk to the Honorable John B. Sanborn, Judge of the United States Court of Appeals for the Eighth Circuit from 1932-33. From 1934-50, he practiced law in Minneapolis and served on the faculties of St. Paul College of Law and the University of Minnesota Law School. He was resident counsel for the Mayo Clinic and Mayo Foundation from 1950-59. From 1959-70, he served as a Judge of the United States Court of Appeals for the Eighth Circuit, having succeeded Judge John B. Sanborn. President Nixon nominated him to the Supreme Court, and he took his seat June 9, 1970.

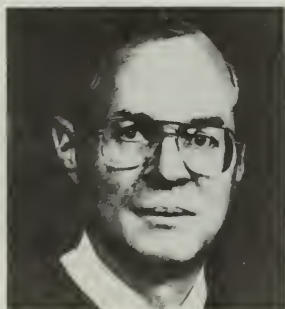
John Paul Stevens, Associate Justice, was born in Chicago, Illinois, April 20, 1920. He married Maryan Mulholland Simon and has four children--John Joseph, Kathryn Stevens Jedlicka, Elizabeth Jane, and Susan Roberta. He received an A.B. from the University of Chicago in 1941 and a J.D. from Northwestern University School of Law in 1947. He served in the United States Navy 1942-45, and was a law clerk to Justice Wiley Rutledge of the Supreme Court during the 1947-48 Term. He was admitted to law practice in Illinois in 1949. He was Associate Counsel to the Subcommittee on the Study of Monopoly Power of the Judiciary Committee of the United States House of Representatives, 1951-52, and a member of the Attorney General's National Committee to Study Antitrust Law, 1953-55. From 1970-75 he served as Judge of the United States Court of Appeals for the Seventh Circuit. President Ford nominated him as an Associate Justice of the Supreme Court, and he took his seat December 19, 1975.





Sandra Day O'Connor, Associate Justice, was born in El Paso, Texas, March 26, 1930. She married John Jay O'Connor III in 1952 and has three sons---Scott, Brian, and Jay. She received her B.A. and LL.B. from Stanford University. She served as Deputy County Attorney of San Mateo County, California from 1952-1953 and as Civilian Attorney for Quartermaster Market Center, Frankfurt, Germany from 1954-1957. From 1958-1960 she practiced law in Maryvale, Arizona, and served as Assistant Attorney General of Arizona from 1965-1969. She was appointed to the Arizona State Senate in 1969 and was subsequently reelected to two two-years terms. In 1975 she was elected Judge of the Maricopa County Superior Court and served until 1979 when she was appointed to the Arizona Court of Appeals. President Reagan nominated her as an Associate Justice of the Supreme Court, and she took her seat September 25, 1981.

Antonin Scalia, Associate Justice, was born in Trenton, New Jersey, March 11, 1936. He married Maureen McCarthy and he has nine children---Ann Forrest, Eugene, John Francis, Catherine Elisabeth, Mary Clare, Paul David, Matthew, Christopher James, and Margaret Jane. He received his A. B. from Georgetown University and the University of Fribourg, Switzerland (1957), his LL.B. from Harvard Law School (1960), and was a Sheldon Fellow of Harvard University (1960-61). He was in private practice in Cleveland, Ohio (1961-67), a Professor of Law at the University of Virginia (1967-71) and the University of Chicago (1977-82), and a Visiting Professor of Law at Georgetown University and Stanford University. He was Chairman of the American Bar Association's Section of Administrative Law (1981-82) and its Conference of Section Chairmen (1982-83). He served the federal government as General Counsel of the Office of Telecommunications Policy (1971-72), Chairman of the Administrative Conference (1972-74), and Assistant Attorney General for the Office of Legal Counsel (1974-77). He was appointed Judge of the United States Court of Appeals for the District of Columbia Circuit in 1982. President Reagan nominated him to the Supreme Court, and he took his seat September 26, 1986.



Anthony M. Kennedy, Associate Justice, was born in Sacramento, California, July 23, 1936. He married Mary Davis and has three children--Justin Anthony, Gregory Davis, and Kristin Marie. He received his B.A. from Stanford University and the London School of Economics (1958), and his LL.B. from Harvard Law School (1961). He was in private practice in San Francisco, California (1961-1963), as well as in Sacramento, California (1963-1975). From 1965 to 1988 he was a Professor of Constitutional Law at the McGeorge School of Laws, University of the Pacific. He has served in numerous positions during his career, including the California Army

National Guard (1961), member of the board of the Federal Judicial Center (1987-1988) and member of two committees of the Judicial Conference of the United States: the Advisory Panel on Financial Disclosure Reports and Judicial Activities, subsequently renamed the Advisory Committee on Codes of Conduct (1979-1987), and the Committee on Pacific Territories (1979-to present), which he has chaired since 1982. He was appointed to the United States Court of Appeals for the Ninth Circuit in 1975. President Reagan nominated him to the Supreme Court, and he took his seat February 18, 1988.



Prepared by the Supreme Court of the United States, and published with the cooperation of the Supreme Court Historical Society.

Past Justices of the Supreme Court

Name	State App't From	Appointed by President	Judicial Oath Taken	Date Service Terminated
<u>Chief Justices:</u>				
Jay, John	New York	Washington	(a) Oct 19, 1790	Jun 29, 1795
Rutledge, John	S. Carolina	Washington	Aug 12, 1795	Dec 15, 1795
Ellsworth, Oliver	Connecticut	Washington	Mar 8, 1796	Dec 15, 1800
Marshall, John	Virginia	Adams, John	Feb 4, 1801	Jul 6, 1835
Taney, Roger Brooke	Maryland	Jackson	Mar 28, 1836	Oct 12, 1864
Chase, Salmon Portland	Ohio	Lincoln	Dec 15, 1864	May 7, 1873
Waite, Morrison Remick	Ohio	Grant	Mar 4, 1874	Mar 23, 1888
Fuller, Melville Weston	Illinois	Cleveland	Oct 8, 1888	Jul 4, 1910
White, Edward Douglas	Louisiana	Taft	Dec 19, 1910	May 19, 1921
Taft, William Howard	Connecticut	Harding	Jul 11, 1921	Feb 3, 1930
Hughes, Charles Evans	New York	Hoover	Feb 24, 1930	Jun 30, 1941
Stone, Harlan Fiske	New York	Roosevelt, F.	Jul 3, 1941	Apr 22, 1946
Vinson, Fred Moore	Kentucky	Truman	Jun 24, 1946	Sep 8, 1953
Warren, Earl	California	Eisenhower	Oct 5, 1953	Jun 23, 1969
Burger, Warren Earl	Virginia	Nixon	Jun 23, 1969	Sep 26, 1986
<u>Associate Justices:</u>				
Rutledge, John	S. Carolina	Washington	(a) Feb 15, 1790	Mar 5, 1791
Cushing, William	Massachusetts	Washington	(c) Feb 2, 1790	Sep 13, 1810
Wilson, James	Pennsylvania	Washington	(b) Oct 5, 1789	Aug 21, 1798
Blair, John	Virginia	Washington	(c) Feb 2, 1790	Oct 25, 1795
Iredell, James	N. Carolina	Washington	(b) May 12, 1790	Oct 20, 1799
Johnson, Thomas	Maryland	Washington	(a) Aug 6, 1792	Jan 16, 1793
Paterson, William	New Jersey	Washington	(a) Mar 11, 1793	Sep 9, 1806
Chase, Samuel	Maryland	Washington	Feb 4, 1796	Jun 19, 1811
Washington, Bushrod	Virginia	Adams, John	(c) Feb 4, 1799	Nov 26, 1829
Moore, Alfred	N. Carolina	Adams, John	(a) Apr 21, 1800	Jan 26, 1804
Johnson, William	S. Carolina	Jefferson	May 7, 1804	Aug 4, 1834
Livingston, Henry B.	New York	Jefferson	Jan 20, 1807	Mar 18, 1823
Todd, Thomas	Kentucky	Jefferson	(a) May 4, 1807	Feb 7, 1826
Duvall, Gabriel	Maryland	Madison	(a) Nov 23, 1811	Jan 14, 1835
Story, Joseph	Massachusetts	Madison	(c) Feb 3, 1812	Sep 10, 1845
Thompson, Smith	New York	Monroe	(b) Sep 1, 1823	Dec 18, 1843
Trimble, Robert	Kentucky	Adams, J.Q.	(a) Jun 16, 1826	Aug 25, 1828
McLean, John	Ohio	Jackson	(c) Jan 11, 1830	Apr 4, 1861
Baldwin, Henry	Pennsylvania	Jackson	Jan 18, 1830	Apr 21, 1844
Wayne, James Moore	Georgia	Jackson	Jan 14, 1835	Jul 5, 1867
Barbour, Philip P.	Virginia	Jackson	May 12, 1836	Feb 25, 1841
Catron, John	Tennessee	Van Buren	May 1, 1837	May 30, 1865
McKinley, John	Alabama	Van Buren	(c) Jan 9 1838	Jul 19, 1852
Daniel, Peter Vivian	Virginia	Van Buren	Jan 10, 1842	May 31, 1860
Nelson, Samuel	New York	Tyler	Feb 27, 1845	Nov 28, 1872
Woodbury, Levi	New Hampshire	Polk(b)	Sep 23, 1845	Sep 4, 1851
Grier, Robert Cooper	Pennsylvania	Polk	Aug 10, 1846	Jan 31, 1870
Curtis Benjamin R.	Massachusetts	Fillmore	(b) Oct 10, 1851	Sep 30, 1857
Campbell, John A.	Alabama	Pierce	(c) Apr 11, 1853	Apr 30, 1861
Clifford, Nathan	Maine	Buchanan	Jan 21, 1858	Jul 25, 1881

Name	State App't From	Appointed by President	Judicial Oath Taken	Date Service Terminated
Swayne, North Haynes	Ohio	Lincoln	Jan 27, 1862	Jan 24, 1881
Miller, Samuel Freeman	Iowa	Lincoln	Jul 21, 1862	Oct 13, 1890
Davis, David	Illinois	Lincoln	Dec 10, 1862	Mar 4, 1877
Field, Stephen J.	California	Lincoln	May 20, 1863	Dec 1, 1897
Strong, William	Pennsylvania	Grant	Mar 14, 1870	Dec 14, 1880
Bradley, Joseph P.	New Jersey	Grant	Mar 23, 1870	Jan 22, 1892
Hunt, Ward	New York	Grant	Jan 9, 1873	Jan 27, 1882
Harlan, John Marshall	Kentucky	Hayes	Dec 10, 1877	Oct 14, 1911
Woods, William B.	Georgia	Hayes	Jan 5, 1881	May 14, 1887
Matthews, Stanley	Ohio	Garfield	May 17, 1881	Mar 22, 1889
Gray, Horace	Massachusetts	Arthur	Jan 9, 1882	Sep 15, 1902
Blatchford, Samuel	New York	Arthur	Apr 3, 1882	Jul 7, 1893
Lamar, Lucius Quintus	Mississippi	Cleveland	Jan 18, 1888	Jan 23, 1893
Brewer, David Josiah	Kansas	Harrison	Jan 6, 1890	Mar 28, 1910
Brown, Henry Billings	Michigan	Harrison	Jan 5, 1891	May 28, 1906
Shiras, George, Jr.	Pennsylvania	Harrison	Oct 10, 1892	Feb 23, 1903
Jackson, Howell E.	Tennessee	Harrison	Mar 4, 1893	Aug 8, 1895
White, Edward Douglas	Louisiana	Cleveland	Mar 12, 1894	Dec 18, 1910
Peckham, Rufus W.	New York	Cleveland	Jan 6, 1896	Oct 24, 1909
McKenna, Joseph	California	McKinley	Jan 26, 1898	Jan 5, 1925
Holmes, Oliver W.	Massachusetts	Roosevelt, T.	Dec 8, 1902	Jan 12, 1932
Day, William Rufus	Ohio	Roosevelt, T.	Mar 2, 1903	Nov 13, 1922
Moody, William H.	Massachusetts	Roosevelt, T.	Dec 17, 1906	Nov 20, 1910
Lurton, Horace H.	Tennessee	Taft	Jan 3, 1910	Jul 12, 1914
Hughes, Charles E.	New York	Taft	Oct 10, 1910	Jun 10, 1916
Van Devanter, Willis	Wyoming	Taft	Jan 3, 1911	Jun 2, 1937
Lamar, Joseph Rucker	Georgia	Taft	Jan 3, 1911	Jan 2, 1916
Pitney, Mahlon	New Jersey	Taft	Mar, 18, 1912	Dec 31, 1922
McReynolds, James C.	Tennessee	Wilson	Oct 12, 1914	Jan 31, 1941
Brandeis, Louis D.	Massachusetts	Wilson	Jun 5, 1916	Feb 13, 1939
Clarke, Hohn Hessin	Ohio	Wilson	Oct 9, 1916	Sep 18, 1922
Sutherland, George	Utah	Harding	Oct 2, 1922	Jan 17, 1938
Butler, Pierce	Minnesota	Harding	Jan 2, 1923	Nov 16, 1939
Sanford, Edward T.	Tennessee	Harding	Feb 19, 1923	Mar 8, 1930
Stone, Harlan Fiske	New York	Coolidge	Mar 2, 1925	Jul 2, 1941
Roberts, Owen J.	Pennsylvania	Hoover	Jun 2, 1930	Jul 31, 1945
Cardozo, Benjamin N.	New York	Hoover	Mar 14, 1932	Jul 9, 1938
Black, Hugo Lafayette	Alabama	Roosevelt, F.	Aug, 19, 1937	Sep 17, 1971
Reed, Stanley Forman	Kentucky	Roosevelt, F.	Jan 31, 1938	Feb 25, 1957
Frankfurter, Felix	Massachusetts	Roosevelt, F.	Jan 30, 1939	Aug 28, 1962
Douglas, William O.	Connecticut	Roosevelt, F.	Apr 17, 1939	Nov 12, 1975
Murphy, Frank	Michigan	Roosevelt, F.	Feb 5, 1940	Jul 19, 1949
Byrnes, James F.	S. Carolina	Roosevelt, F.	Jul 8, 1941	Oct 3, 1942
Jackson, Robert H.	New York	Roosevelt, F.	Jul 11, 1941	Oct 9, 1954
Rutledge, Wiley B.	Iowa	Roosevelt, F.	Feb 15, 1943	Sep 10, 1949
Burton, Harold H.	Ohio	Truman	Oct 1, 1945	Oct 13, 1958
Clark, Thomas Campbell	Texas	Truman	Aug 24, 1949	Jun 12, 1967
Minton, Sherman	Indiana	Truman	Oct 12, 1949	Oct 15, 1956
Harlan, John Marshall	New York	Eisenhower	Mar 28, 1955	Sep 23, 1971

Name	State App't From	Appointed by President	Judicial Oath Taken	Date Service Terminated
Whittaker, Charles Evans	Missouri	Eisenhower	Mar 25, 1957	Mar 31, 1962
Stewart, Potter	Ohio	Eisenhower	Oct 14, 1958	Jul 3, 1981
Goldberg, Arthur Joseph	Illinois	Kennedy	Oct 1, 1962	Jul 25, 1965
Fortas, Abe	Tennessee	Johnson, L.	Oct 4, 1965	May 14, 1969
Powell, Lewis F., Jr.	Virginia	Nixon	Jan 7, 1972	Jun 26, 1987
Rehnquist, William H.	Arizona	Nixon	Jan 7, 1972	Sep 26, 1986

Notes: The acceptance of the appointment and commission by the appointee, as evidenced by the taking of the prescribed oaths, is here implied: otherwise the individual is not carried on this list of the Members of the Court. Examples: Robert Hanson Harrison is not carried, as a letter from President Washington of February 9, 1790, states Harrison declined to serve. Neither is Edwin M. Stanton, who died before he could take the necessary steps toward becoming a Member of the Court. Chief Justice Rutledge is included because he took his oaths, presided over the August Term of 1795, and his name appears on two opinions of the Court for that term.

The date a Member of the Court took his Judicial Oath (the Judiciary Act provided "That the Justice of the Supreme Court, and the district judges, before they proceed to execute the duties their respective offices, shall take the following oath...") is here used as the date of the beginning of service, for until that oath is taken he is not vested with the prerogatives of office. The dates given in this column are for the oaths taken following receipt of the commission listed in the preceding column. Dates without small-letter references are taken from the Minutes of the Court or from the original oath which is in the Clerk's file. The small letter (a) denotes the date is from the Minutes of some other court: (b) from some other unquestionable authority; (c) from authority that is questionable, and better authority would be appreciated.



CHAPTER III

The Uniform Code of Military Justice

- History of Courts-Martial
- Source Authority for Military Justice
- The Legal Rights of Servicemembers
- The Military Legal System

History of Courts-Martial

Examples of tribunals to deal with military offenders are known from Roman times; however, the distinction between civil and military jurisdiction apparently was not important until after the Middle Ages. The 13th century Court of the High Constable and Marshal of England (possibly the source of the term "courts-martial") dealt with civil crimes and contracts as well as with military matters. Special courts administering military codes appeared in Europe in the 16th and 17th centuries. One of these codes, promulgated by King Gustavus Adolphus of Sweden in 1621, instituted lower and higher courts and specified their composition, jurisdiction, and procedures in some detail.

American courts-martial antedate the U.S. Constitution. George Washington assisted in drafting the Articles of War adopted by the Continental Congress in 1775. The articles copied the contemporary British structure of general, regimental, and garrison courts-martial. Although the U.S. courts-martial system always has been based on specific legislation, the President has participated in administering the system by virtue of his powers as Commander in Chief and, later, by express Congressional delegation of power. Notably, maximum limits of punishments and rules of procedure are announced by executive order in the *Manual for Courts-Martial*.

Prior to 1950 there were separate disciplinary laws for the Navy and the Coast Guard, but military law developed chiefly through changes in the Army's Articles of War. The Articles were applied to vast numbers of citizen soldiers in World Wars I and II and were criticized for permitting undue influence by commanders and harsh sentences. In 1920 the Articles were changed to put the defense on the same footing as the prosecution, to prohibit return of acquittals for reconsideration of the court, and to assure appellate review of all general court-martial cases. In 1948 further changes placed a lawyer member on each general court-martial, authorized enlisted persons to be members of courts-martial, and increased the powers of judicial reviewing bodies.

In 1950 the Uniform Code of Military Justice (UCMJ) was approved by Congress for all services. The Uniform Code established the Court of Military Appeals which, through its decisions, has elaborated upon the protections and rights of the military accused. The Military Justice Act of 1968 amended the code to streamline trial procedures, to expand the right of the accused to a qualified lawyer defense counsel, and to enhance the role of the military judge.

Source Authority for Military Justice

Article I, Section 8 of the Constitution grants Congress the power "to make Rules for the Government and Regulation of the land and naval Forces." For over two hundred years now, initially through the Articles of War and later through the Uniform Code of Military Justice (UCMJ), our system of military justice has had its roots in the Constitution of the United States.

Since 1951, the UCMJ has served as the source authority for the military justice system. Consisting of fewer than 150 statutory sections called "Articles," the UCMJ addresses: the jurisdiction or power of the court-martial system; pretrial, trial, and post-trial procedures; the authority and composition of courts-martial; offenses; and review of courts-martial. At the same time, the UCMJ provides for and protects the substantial rights of soldiers, such as: the right to counsel; the privilege against self-incrimination; the right to a trial of the facts; the right to a speedy trial; the right to compulsory process; and the protection against double jeopardy.

Since it is impossible for Congress to prescribe every detail of the military justice system, it has conferred certain authority upon the President. Article 36 of the UCMJ specifically gives the President the power to prescribe procedures for courts-martial. Article 56 permits the President to prescribe maximum punishments for offenses under the UCMJ. The President has exercised this delegated authority by promulgating the Manual for Courts-Martials and the courts have recognized the Manual as a valid exercise of the President's rule-making authority. Thus, for the skeleton of the military justice system established by the UCMJ, the Manual provides the flesh.

While covering the same subjects as the UCMJ, the Manual does so in greater detail. Thus, the Manual provides chronologically for the processing of criminal cases, to include appellate review; establishes rules of evidence for use at courts-martial; and details criminal offenses under the UCMJ, to include maximum punishments.

To complete the hierarchy of authority for the military justice system, the President has delegated to the Service Secretaries the authority to prescribe rules not inconsistent with the UCMJ or Manual for Courts Martial. For example, in Army Regulation 27-10, the Secretary of the Army has prescribed policies and procedures pertaining to the administration of military justice within the United States Army. Army Regulation 27-10 contains detailed guidance for proceedings under Article 15, UCMJ, pertaining to nonjudicial punishment; creates the United States Army Trial Defense Service as an independent organization to provide defense counsel services; and establishes an independent United States Army Trial Judiciary. Similar provisions are contained in Air Force Regulation 111-1, Navy Judge Advocate General Instruction 5800.7B for the Navy and Marine Corps, and Commandant Instruction M5810.1B for the Coast Guard.

Through rights, procedures, and policies contained in the Uniform Code of Military Justice, the Manual for Courts-Martial, and departmental regulations, the military justice system protects the rights of servicemembers as well as ensuring fairness in the administration of justices.

The Legal Rights of Servicemembers

What is the source of the rights afforded servicemembers, where can we find them listed and how do they apply?

You start with the U.S. Constitution, especially the Bill of Rights, where you'll find the most important ones embodied in the fourth, fifth, sixth and eighth amendments. Then you move on to the various federal statutes that provide additional protection, particularly the Uniform Code of Military Justice. The code sets forth procedural rules and the law. Farther down the scale comes the Executive Order, such as the "Manual for Courts-Martial." There you'll find the procedural rules, rules of evidence and rules for determining "substantive crimes." The rules of evidence carry the most weight in protecting servicemembers accused of criminal conduct. Other rights emerge from directives issued by the Defense Department and the Armed Services; in the Army, AR 27-10.

How do these sources of rights interact or overlap?

They're set forth in a hierarchy. The first source, the Constitution, is paramount. If a lower source sets forth a more stringent provision to protect individual rights, that provision would prevail.

How about the "Right to Privacy"?

Certainly, persons in the military have a right to privacy. For example, a military official generally must obtain a warrant or authorization before searching a servicemember. Most people know that the warrants are issued by military judges and magistrates; but even commanders may issue them. Regardless of who does the issuing, the issuer must be neutral and disinterested, understand the principle of "probable cause" as the foundation for the warrant, and be prepared to grant the warrant upon showing of probable cause. Of course, as in the civilian sector, the warrant must specify the place to be searched and the things to be seized. Also reflective of the civilian practice, the military has exceptions to the warrant requirement. These include search incident to arrest, stop-and-frisks, inventories and inspections. Incidentally, both the civilian and military courts permit warrantless inspections of pervasively regulated industries and businesses. That practice affords the commander the right to inspect the troops to ensure they're properly prepared, equipped, trained and kept combat-ready. In such command-ordered inspections, it is appropriate for the commander to inspect lockers, rooms, persons, and equipment.

If a separate standard for protecting servicemembers' privacy can be applied in the interest of maintaining discipline within the ranks, does this mean the privacy safeguards of servicemembers are inferior to those of their civilian counterparts?

Not necessarily. Certainly military law should not be civilianized to the extent that it is a detriment to discipline and the maintenance of an effective fighting force. Based on this premise, it has been argued that a discipline exception should be established. To the contrary, in the area of wiretap authorization, the right of privacy for military personnel is protected by regulations more stringently than is the case for the civilian populace.

When it comes to eyewitness-identification procedures, does an accused servicemember enjoy more rights than his counterpart on the civilian side?

Yes. For one thing, the civilian isn't entitled to the services of a lawyer at the lineup until "the initiation of the adversary judicial criminal proceeding." This occurs when the suspect finds himself faced with the prosecution or an organized society. Although it is unclear exactly when the right to counsel accrues, the U.S. Supreme Court has suggested that it comes into play at the time of a formal charge, preliminary hearing, indictment, information or arraignment. Despite that ill-defined area of civilian law, the military has defined the specific stage in which the accused is entitled to counsel. It occurs right there at the line-up. Such "pretrial restraint" as restricting a person to the barracks also entitles him or her to a lawyer.

What are the limits on pretrial confinement?

A person may be ordered into pretrial confinement only if the commander believes upon probable cause that an offense has been committed under the code, that the confinee committed it and that confinement is necessary to ensure appearance at trial; or that it is foreseeable that the confinee will engage in serious misconduct and that less severe forms of restraint would be inadequate. Pretrial confinement can only be used as the last resort. When a person undergoes confinement, his case faces three reviews. They all must occur promptly. A military judge conducts the final review. If the judge orders release of the confinee, that decision, unlike its civilian counterpart, may not be appealed.

When is the confined person entitled to the presence of counsel?

Regulations require that within 72 hours of confinement, counsel must consult with the accused.

What is the role of the defense counsel-particularly as a case moves on to trial?

In most of the services, the appointed counsel serves independently of commanders and staff judge advocates for the installation. This means that such a lawyer belongs to an entirely separate organization, one that's not responsible to or subject to orders from a given installation. Of course, persons convicted at court-martial have the entitlement of free counsel on appeal, regardless of their financial status. Normally, the appeals-level counsel differs from the trial counsel. This serves to check the effectiveness of counsel, unlike on the civilian side where the trial-level lawyer normally becomes the lawyer on appeal.

The right to free counsel applies to general and special courts-martial, but not to the simplest judicial proceeding, the summary court-martial. Why?

The services do have the option of granting access to free counsel in summary court-martial cases, but the military system generally takes its cue from the Supreme Court's doctrine that the prospect of confinement of less than six months requires no public defender in state proceedings. On the military side, where you have a maximum confinement period of one month in summary court-martial cases, the accused mirrors his civilian counterpart in having no constitutional right to a public defender. Even so, the defendant can ensure counsel by demanding special court-

martial; or, if he or she chooses, retain civilian counsel at no expense to the government. In thus exercising choice of trial proceeding, the accused generally is allowed (if not encouraged) to obtain the services of counsel in weighing the choice.

According to the Constitution, the servicemember enjoys no Fifth-Amendment right to have his case presented to a grand jury for indictment purposes. Does this distinction between the civilian and the military communities lead to unwarranted criticism of the military system?

No. The military accused, instead of a secret grand jury investigation, undergoes an open impartial investigation where he or she may present evidence. One should question the extent of the protection provided by the grand jury process, in comparison to that provided by military practice. Most prosecutors will tell you that the grand jury serves as a common-sense yardstick as to whether charges should be brought against a person. When the prosecutor doesn't have a unanimous vote from the jurors authorizing issuance of an indictment, that result would indicate some weakness in the case. Whenever a true bill fails to materialize from the court's deliberations, that aspect becomes the ultimate test for deciding whether the person should be prosecuted. Instead of a grand-jury proceeding, the military provides that a person may be tried by general court-martial only if he has undergone what's known as an "Article 32" (from the code investigation or its equivalent.) That investigation has four main purposes:

- It aims to protect the accused from baseless charges.
- It provides a convening authority with information on which to determine whether to refer charges to trial by court-martial.
- It provides the convening authority (an installation commander, for example) with information with which to determine specific disposition of the case.
- It provides the defense with pretrial discovery of evidence that may be introduced by either the prosecution or the defense counsel.

When it comes to trial time, what guarantees can the accused servicemember expect?

Like any other citizen, he enjoys the right to a speedy trial. This means that for military purposes the trial must begin within 90 days of confinement or within 120 of the charges being preferred, whichever is earlier. Those rules generally afford a wider latitude in military law than they do "on the outside."

Both the civilian and the military accused enjoy the right to a public trial in criminal cases. That right covers the entire trial in criminal cases from questioning of prospective jurors, pretrial motions, preliminary hearings and opening statements to presentation of evidence, arguments of counsel and instruction of court members in return of the verdict. This is important because it is necessary to permit the public, the news media and friends of the defendant and victim to determine the fairness of the hearing or trial.

Does the Fifth Amendment protect servicemembers' rights in other ways?

Being tried twice for the same offense--double jeopardy--is prohibited by the fifth amendment. What's more, both the Uniform Code of Military Justice and the "Manual for Courts-Martial" protect a servicemember from being tried by a federal civilian court and then by a court-martial, or vice versa, for the same offense. None of these provisions, however, prohibit a retrial unless the trial was terminated after the presentation of the evidence on the question of guilt or innocence.

Besides that protection, the principle of relitigating the same facts at a second trial in another jurisdiction also applies to the military. Here, the military prosecution, which seldom uses multiple trials against a single defendant, is bound by fairness not to have multiple trials relitigating the same facts at a second trial. The key U.S. Supreme Court case on this issue applies in the military and in the federal and state courts.

Has legislation strengthened the rights of the accused servicemember?

The Military Justice Act of 1968 replaced the law officer with a military judge, an attorney selected by the service's judge advocate general. That selection is based on the person's experience and expertise in military criminal law. In cases tried by general court-martial, the judge is a subordinate of the service's judge advocate general, not of the court-martial convening authority. That distinction also applies to the special court-martial judge, in some of the services. The same act gives the servicemember the option of a trial by a judge or a trial with court members.

The Military Justice Act of 1983 eliminated command control over military judges by not allowing the convening authority to designate the trial judge of a particular case. Trial judges must be detailed to a court-martial by other persons who are assigned official duties.

Does the lack of command influence in judge selection extend to appointment of defense counsel?

Yes. As with military judges, defense counsels now are appointed by persons assigned defense duties in the Army and Air Force. These services have separate defense counsel corps under the supervision of their respective judge advocate general. This method removes defense personnel from the command of the convening authority and thus insulates them further from any hint or possibility of command influence. Likewise, the Navy and the Coast Guard have taken steps to assure the independence of the defense counsels.

What governs the practice of pleading guilty within a court-martial setting?

Regardless of the choice of trial by judge alone or by court members, the accused decides whether to enter a plea of guilty or not guilty. In the military, the guilty-plea practice differs slightly from that of civilian jurisprudence. The U.S. Supreme Court, in the *Alford* case, has held that a defendant may constitutionally plead guilty while expressly maintaining innocence of the charges to which the plea is entered. But military law rejects this approach in favor of requiring that if the accused chooses to plead guilty, he or she must expressly admit factual guilt in

open court. Indeed, if after filing of the plea the trial judge's inquiry reveals even a potential defense, the military judge must reject the plea of guilty and procede with a trial on the merits of the case. In this way, no innocent servicemember is ever coerced into pleading guilty; the judge would not permit such a plea.

Isn't that military rule a little behind the times?

Some have argued as much; they're convinced that it's so obsolete as to warrant changing, now that servicemembers no longer have a limited right to counsel. It would seem better that the military rule remain, because the "Alford" rule--from the Supreme Court--casts doubts upon the fairness and justice of the particular system.

You endorse the view that "unanimity [of a court's verdict] does not necessarily lead to a better verdict." Would you explain?

As is the case in some state courts, in the military a verdict is rendered on a less than-unanimous basis. The U.S. Supreme Court in *"Apodaca vs. Oregon"* upheld felony convictions based on 11-1 and 10-2 votes of the jurors. The court noted that the Sixth amendment requires no jury unanimity. The jury's essential feature is to interpose between the accused and his accuser the commonsense judgement of the group of layperson.

In upholding a 9-3 verdict in *"Johnson vs. Louisiana,"* the court rejected the argument that unanimity is required to ensure the proof of guilt beyond a reasonable doubt. The court said that the reasonable-doubt standard developed separately from the right to trial by jury, and that, in any event, the lack of unanimity did not violate the reasonable-doubt standard.

So you're saying that the accused servicemember remains in good hands as his case proceeds toward a vote?

Yes. Many consider the trial by court in the military to be a trial by a blue-ribbon jury, and that the various viewpoints will be represented. Here's another benefit of the less-than-unanimous verdict in the military: It prevents a hung jury, thus saving the accused the emotional distress of having to undergo another trial as a result of such a hung verdict.

In cases where the death penalty is not mandatory, the verdict in a military trial must be based upon a vote of at least two-thirds of the members present at voting time. In computing the number of votes, any fraction of a vote is rounded up to the next whole number. For example, if there were seven members, the concurrence of at least five would be necessary to convict.

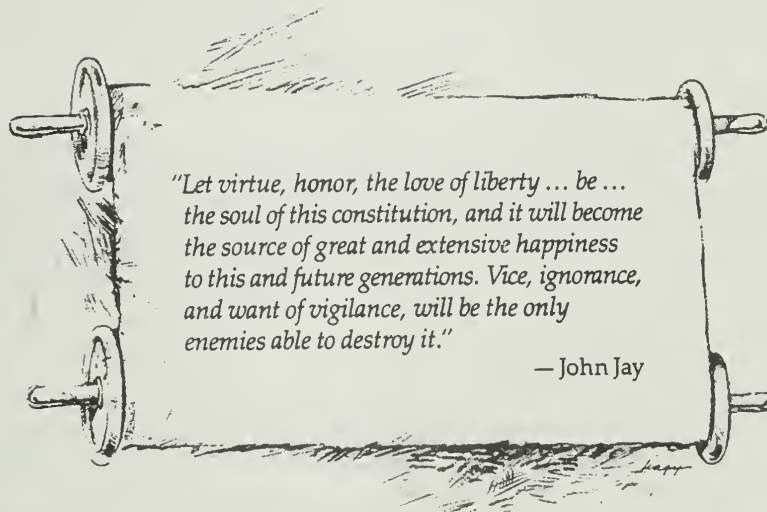
What about appellate rights?

During the appellate process, the accused has access to a "formal release, pending a review." This resembles the civilian community's "bail, pending appeal." the military version is called deferral of punishment.

As mentioned, the military defendant has the right to a lawyer during the appellate process regardless of indigency. Then we have the U.S. Court of Military Appeals in Washington, a civilian court that over-sees the military justice system. Appointed to it are five prominent civilian jurists nominated by the President of the

United States and confirmed by the Senate. Any abuses in the system would be subjected to their scrutiny and remedy as a final check.

The Military Justice Act of 1983 extended even further the appellate rights of servicemembers by providing for direct Supreme Court review of decisions by the Court of Military Appeals. This provision marks the first time for such direct appeal of military decisions to the nation's highest court. The expanded avenue of appeal even would allow appeals of summary disposition by the civilian appellate court; and in some instances the Supreme Court may grant a summary disposition to allow the servicemember to make an appeal. When there is an appeal to the Supreme Court, military appellate counsel is appointed for the servicemember free of charge.



Courtesy of Colonel Francis A. Gilligan, Criminal Law Division, Office of The Judge Advocate General and reprinted from "The Bill of Rights and Service Members," The Army Lawyer, December 1987.

Military Legal System

After a thorough investigation, a military criminal case begins when the commander determines that there is sufficient evidence to believe that a servicemember has committed an offense. The commander then considers all the facts and circumstances and determines the appropriate disposition of the alleged offenses. The commander's options range from counseling, taking administrative action, offering the servicemember nonjudicial punishment, or preferring court-martial charges.

Nonjudicial Punishment

Excluding the options of counseling or disposing of suspected offenses by administrative action, nonjudicial punishment under Article 15 of the Uniform Code of Military Justice is the first punitive option a commander should consider. Article 15 authorizes a commander to impose limited punishment upon a soldier of his command when that soldier committed a minor offense. Punishment under Article 15 is intended to be corrective and educational in nature. Punishments are therefore limited and include correctional custody, restriction to specified limits, reduction in grade, forfeiture of pay, performance of extra duties, and official reprimand.

There are two types of Article 15 proceedings: summarized and formal. A summarized Article 15 proceeding is used for minor misconduct when the commander determines that punishment, if appropriate, should be limited to no more than extra duty and restriction for 14 days and an oral reprimand or admonition. If, on the other hand, other or more severe forms of punishment seem appropriate, the commander may elect a formal Article 15 proceeding which could result in the full range of punishments noted above.

If a commander offers proceedings under Article 15 to a soldier, the soldier may accept those proceedings or demand trial by court-martial. A soldier offered a formal Article 15 must be afforded an opportunity to consult with legal counsel. If the soldier accepts Article 15 proceedings, the commander determines guilt or innocence and, if necessary, the appropriate punishment. A soldier punished under Article 15 may appeal the findings and/or punishment to the next higher commander. This procedure for nonjudicial punishment is referred to as "Captain's Mast" (Navy and Coast Guard), "Office Hours" (Marine Corps), or simply as "Article 15" (Army and Air Force).

An Article 15 is not the equivalent of a court-martial conviction. However, the record of punishment under Article 15 may be placed in the soldiers' file and used to judge the character of service for purposes of promotion or re-enlistment, and may be considered at any subsequent administrative proceedings or court-martial.

Disposition by Courts-Martial

Forwarding of Charges

If the commander determines that trial by court-martial is appropriate, the commander will prefer formal charges under the Uniform Code of Military Justice against the servicemember. The commander will then take the charges, the investigative report, and his recommendation as to disposition and forward them

through the chain of command to the officer who is authorized to convene a court-martial of the level appropriate for the offenses charged. This senior officer is called a convening authority. Each commander in the chain of command will review the charges, investigative report, and prior recommendations, and make an independent recommendation as to the appropriate disposition of the case.

Under normal circumstances, a commander who receives charges from a subordinate commander is free to dispose of those charges at his own level. Thus, for example, a battalion commander may receive court-martial charges from a company commander, but decide that an Article 15 is appropriate. The battalion commander may dismiss the charges and offer the soldier proceedings under Article 15 for the same offense.

Pretrial Confinement

A commander may order a soldier into pretrial confinement if the commander has reasonable grounds to believe: that an offense triable by court-martial has been committed; that the soldier concerned committed it; and that confinement is necessary either to ensure the soldier's presence at trial, or because it is foreseeable that the soldier will engage in additional serious criminal misconduct. The commander must also have reason to believe that lesser forms of restraint are inadequate. Within 72 hours of entering pretrial confinement a soldier must consult with legally qualified counsel, and, if the decision to order confinement was made by someone other than the soldier's commander, the soldier's commander must review the decision to impose pretrial confinement and determine whether continued pretrial confinement is warranted. If the commander determines that continued pretrial confinement is warranted, he must prepare a memorandum detailing the reasons in support of his decision.

Members of the independent military judiciary, acting as "military magistrates," review the lawfulness of pretrial confinement. This review must be accomplished within seven days of the inception of pretrial confinement. If a magistrate determines that pretrial confinement is warranted, that determination is reviewed periodically until the accused is released from pretrial confinement or until trial. The military magistrate may, however, direct that a soldier be released from pretrial confinement.

Levels of Courts-Martial

Should a court-martial be the appropriate disposition, there are three levels of courts-martial: the summary court-martial, the special court-martial, and the general court-martial.

Summary Court-Martial

This is the lowest level of court-martial in terms of its punishment authority. The summary court-martial is composed of one commissioned officer who need not be an attorney. The convening authority for a summary court-martial is normally a battalion commander (lieutenant colonel). A soldier must consent to be tried at this level. A soldier may be represented at the summary court-martial by a civilian attorney paid for by the soldier, but there is no right to representation by a military counsel of the Trial Defense Service. Prior to trial, however, each soldier is afforded the opportunity to consult with military counsel of the Trial Defense Service. Unless otherwise directed, a verbatim record of the proceedings is not

prepared. Authorized punishments at a summary court-martial exceed those authorized under Article 15, and include confinement for thirty days for soldiers in grades E-1 through E-4.

Special Court-Martial

The intermediate level of trial is the special court-martial. This court is composed of a military judge who is an attorney and no fewer than three members (jurors), including enlisted soldiers if requested by an enlisted accused. The accused soldier may also request to be tried by the military judge alone, in which case the judge would decide guilt or innocence and an appropriate sentence, if necessary. A special court-martial can adjudge confinement for up to six months, forfeiture of two-thirds pay per month for up to six months, and reductions to the lowest enlisted grade.

There is a second type of special court-martial commonly called a bad conduct discharge special court-martial. This court is composed of the same personnel. However, in addition to those punishments previously mentioned, the bad conduct discharge special court-martial is empowered to adjudge a bad conduct discharge for enlisted soldiers.

Any soldier may be tried by special court-martial. The accused is entitled to representation by free military counsel, or the accused can hire a civilian attorney at his own expense. A verbatim record of the proceedings is not required unless the convening authority directs a verbatim record or the court has adjudged a bad conduct discharge.

General Court-Martial

The highest level of court-martial in the military justice system is the general court-martial. The general court-martial is composed of a military judge and not fewer than five members. Again, an enlisted accused may demand that enlisted members be included in the court membership. Also, the accused may request to be tried by military judge alone rather than by members. The convening authority for a general court-martial is normally a general officer commanding a division or post.

A soldier tried by general court-martial is entitled to representation by free military counsel regardless of indigency. He may also hire a civilian attorney at no expense to the government. Additionally, an impartial investigation must be held before charges can be referred to a general court-martial. At this investigation a neutral officer inquires into the charges and supporting evidence. Unlike a grand jury hearing, the investigation is conducted in the presence of the accused and his counsel.

Depending on the maximum punishment authorized for a given offense, a general court-martial may impose any punishment authorized by law to include death, confinement for life, dismissal for officers, dishonorable or bad conduct discharges for enlisted personnel, and forfeiture of all pay and allowances. A verbatim record of proceedings is prepared for a general court-martial.

Action by the Convening Authority

In addition to convening courts and referring cases to trial by courts-martial, the convening authority is responsible for taking action in every case. At his

discretion the convening authority may approve, disapprove, or reduce any part of the findings or sentence. He may not, however, increase the severity of the sentence. In all cases, the accused and his counsel, if any, have the right to submit matters to the convening authority. Any such matters must be considered by the convening authority before action is taken. In the case of a general court-martial or a special court-martial in which a bad conduct discharge was adjudged, the convening authority may not take action until advice is received from the senior legal advisor and the counsel representing the soldier has had an opportunity to comment on that advice.

Appellate Review of Courts-Martial Convictions

After the convening authority takes action, each case is reviewed to ensure that the findings and sentence are legally proper and correct. The nature of that review depends on the sentence approved.

If an approved sentence does not include a punitive discharge or at least one year in confinement, the case is reviewed by a judge advocate under the provisions of Rule for Courts-Martial 1112, Manual for Courts-Martial. A judge advocate is a fully qualified military attorney. The review consists of ensuring that: the court had jurisdiction over the accused and each offense for which there is a finding of guilty; each specification for which there is a finding of guilty states an offense; and the sentence is legal. In the event that the reviewing Judge Advocate finds error and recommends corrective action, the case is forwarded to the general court-martial convening authority for corrective action.

In any general court-martial which resulted in no discharge and no confinement for a year or more, and if the accused soldier has not waived or withdrawn appellate review, the case is reviewed in the office of The Judge Advocate General of the Army. If error is found, corrective action may be taken.

If the convening authority has approved a sentence including a punitive discharge or confinement for a year or more, and the accused soldier has not waived his right to appellate review, the case will be automatically reviewed by the United States Army Court of Military Review. The Army Court of Military Review is composed of experienced military judges. Pursuant to Article 66 of the Uniform Code of Military Justice, the Army Court of Military Review considers the entire record and the law involved in the case. The court must determine that the accused is guilty beyond a reasonable doubt, that there was no error which prejudiced the substantial rights of the accused, and that the sentence is appropriate. The court may take whatever corrective action is appropriate, but it may not increase the severity of the sentence.

During appellate review before the Army Court of Military Review, a military appellate defense counsel is designated by The Judge Advocate General to represent the accused. This appointed counsel is a qualified appellate defense attorney and a member of the Judge Advocate Generals Corps. A soldier will be contacted by his or her appellate defense counsel regarding the appeal.

After the Army Court of Military Review has acted, the soldier will be notified of the court's decision. If any part of the findings and sentence is affirmed by the Court of Military Review, the soldier may petition the United States Court of Military Appeals for a grant of review. The Court of Military Appeals is composed of five civilian judges appointed by the President. If this petition is granted and any

part of the findings and sentence is affirmed by the Court of Military Appeals, the soldier may then petition the United States Supreme Court for review of the case.

Other Review and Clemency Actions

In those cases where review by the appellate courts has been completed, the soldier may seek other extra-judicial relief. Within two years of the approved court-martial sentence, the soldier may petition The Judge Advocate General for a new trial. Further, at any time after action by the convening authority, the soldier may petition the Secretary of the Army for clemency on the unexecuted portion of the sentence under Article 74, Uniform Code of Military Justice, or apply for relief to the Army Board for Correction of Military Records. Attorneys for the United States Army Trial Defense Service are available to assist the soldier with these actions.

Army Clemency Board

In addition to the above, the Army Clemency and Parole Board automatically reviews the cases of all soldiers whose court-martial sentence includes confinement for a least twelve months. This automatic review is conducted at least annually, as long as the soldier remains subject to confinement. The review is conducted to determine whether sentence reduction, or other forms of clemency such as parole, is appropriate.



CHAPTER IV

Soldier-Statesman Justices of the United States Supreme Court

**BIOGRAPHICAL INFORMATION
ON THE SOLDIER-STATESMAN JUSTICES**

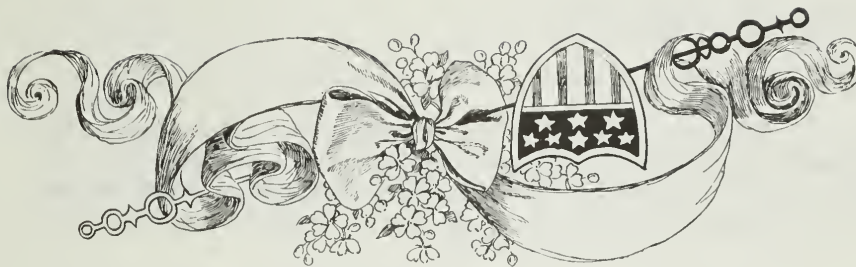
NAME AND STATE OF RESIDENCE	BIRTH	DEATH	TERM OF OFFICE	MILITARY SERVICE
John Jay New York	12 Dec 1745 New York, NY	17 May 1829 Bedford, NY	19 Oct 1789 - 29 Jun 1795	Colonel, New York Militia, 1775
Thomas Johnson Maryland	4 Nov 1732 Calvert Co., MD	26 Oct 1819 Frederick, MD	6 Aug 1792-16 Jan 1793	Brigadier General, Maryland Militia, 1776-77; Service in the Revolution
Bushrod Washington Virginia	5 Jun 1762 Westmoreland Co., VA	26 Nov 1829 Philadelphia, PA	4 Feb 1799-26 Nov 1829	Private, Continental Army, 1778-81; Service in the Revolution
Alfred Moore North Carolina	21 May 1755 New Hanover Co., NC	15 Oct 1810 "Belfont," Bladen Co., NC	21 Apr 1800-26 Jan 1804	Captain, Continental Army, 1775-77; Colonel, North Carolina Militia, 1777-81; Service in the Revolution
John Marshall Virginia	24 Sep 1755 Germantown, VA	6 Jul 1835 Philadelphia, PA	4 Feb 1801 - 6 Jul 1835	Captain, Militia, 1775-76 Continental Army, 1776-81; Service in the Revolution
Henry Brockholst Livingston New York	25 Nov 1757 New York, NY	18 Mar 1823 Washington, DC	20 Jan 1807-18 Mar 1823	Lieutenant Colonel, Continental Army, 1775-79; Service in the Revolution
Thomas Todd Kentucky	23 Jan 1765 Near Dunkirk, King and Queen Co., VA	7 Feb 1826 Frankfort, KY	4 May 1807-7 Feb 1826	Private, Continental Army, 1781; Service in the Revolution

NAME AND STATE OF RESIDENCE	BIRTH	DEATH	TERM OF OFFICE	MILITARY SERVICE
Gabriel Duvall Maryland	6 Dec 1752 "Marietta," Prince George's Co., MD	6 Mar 1844 Near Glenn Dale, Prince George's Co, MD	23 Nov 1811-14 Jan 1835	Private, Maryland Militia, 1776-77; Service in the Revolution
James Moore Wayne Georgia	c. 1790 Savannah, GA	5 Jul 1867 Washington, DC	14 Jan 1835-5 Jul 1867	Captain, Georgia Hussars, 1812-15; Service in the War of 1812
John Catron Tennessee	c. 1786 Pennsylvania	30 May 1865 Nashville, TN	1 May 1837-30 May 1865	Sergeant Major, U.S. Volunteers, 1813-15; Service in the War of 1812
John Archibald Campbell Alabama	24 Jun 1811 Washington, GA	12 Mar 1889 Baltimore, MD	11 Apr 1853-30 Apr 1861	Cadet, U.S. Military Academy, 1825-28; Left West Point to care for ailing father
John Marshall Harlan Kentucky	1 Jun 1833 Boyle Co., KY	14 Oct 1911 Washington, DC	10 Dec 1877-14 Oct 1911	Colonel, U.S. Volunteers, 1861-63; Service in the Civil War
William Burnham Woods Georgia	3 Aug 1824 Newark, OH	14 May 1887 Washington, DC	5 Jan 1881-14 May 1887	Brigadier General (Bvt. Major General), U.S. Volunteers, 1862-66; Service in the Civil War
Stanley Matthews Ohio	21 Jul 1824 Cincinnati, OH	22 Mar 1889 Washington, DC	17 May 1881- 22 Mar 1889	Colonel, U.S. Volunteers, 1861-63; Service in the Civil War

NAME AND STATE OF RESIDENCE	BIRTH	DEATH	TERM OF OFFICE	MILITARY SERVICE
Lucius Quintus C. Lamar Mississippi	17 Sep 1825 Eatontown, Putnam Co., GA	23 Jan 1893 Vineville, GA	18 Jan 1888-23 Jan 1893	Lieutenant Colonel, C.S.A., 1861-62; Service in the Civil War
Edward Douglass White Louisiana	3 Nov 1845 Parish Lafourche, LA	19 May 1921 Washington, DC	12 Mar 1894-18 Dec 1910	Private, C.S.A., 1861-63; Service in the Civil War
Oliver Wendell Holmes Massachusetts	8 Mar 1841 Boston, MA	6 Mar 1935 Washington, DC	8 Dec 1902-12 Jan 1932	Captain, U.S. Volunteers, 1861-64; Service in the Civil War
Horace Harmon Lurton Tennessee	26 Feb 1844 Newport, KY	12 Jul 1914 Atlantic City, NJ	3 Jan 1910-12 Jul 1914	Sergeant Major, C.S.A., 1861-65; Service in the Civil War
Hugo Lafayette Black Alabama	27 Feb 1886 Harlan, Clay Co., AL	25 Sep 1971 Bethesda, MD	19 Aug 1937-17 Sep 1971	Captain, U.S. Army, 1917-18
Stanley Forman Reed Kentucky	31 Dec 1884 Minerva, Mason Co., KY	2 Apr 1980 Huntington, NY	31 Jan 1938-25 Feb 1957	First Lieutenant, U.S. Army, 1918; Service in World War I
William Orville Douglas Connecticut	16 Oct 1898 Maine, MN	19 Jan 1980 Washington, DC	17 Apr 1939-12 Nov 1975	Private, U.S. Army, 1917-19

NAME AND STATE OF RESIDENCE	BIRTH	DEATH	TERM OF OFFICE	MILITARY SERVICE
Frank Murphy Michigan	13 Apr 1890 Harbor Beach, MI	19 Jul 1949 Detroit, MI	5 Feb 1940-19 Jul 1949	First Lieutenant, U.S. Army, 1919; Service in World War I; Lieutenant Colonel, U.S. Army Reserve, 1942
Harold Hitz Burton Ohio	22 Jun 1888 Jamaica Plain, MA	28 Oct 1964 Washington, DC	1 Oct 1945-13 Oct 1958	Captain, U.S. Army, 1918-1919; Service in World War I
Thomas Campbell Clark Texas	23 Sep 1899 Dallas, TX	13 Jun 1977 New York, NY	24 Aug 1949-12 Jun 1967	Sergeant, U.S. Army, 1918-1919
Sherman Minton Indiana	20 Oct 1890 Georgetown, IN	9 Apr 1965 New Albany, IN	12 Oct 1949-15 Oct 1956	Captain, U.S. Army, 1917-1919; Service in World War I
William J. Brennan, Jr. New Jersey	25 Apr 1906 Newark, NJ	n/a	16 Oct 1956-present	Colonel, U.S. Army, 1942-45; Service in World War II
Potter Stewart Ohio	23 Jan 1915 Jackson, MI	n/a	14 Oct 1958-3 Jul 1981	Lieutenant (junior grade), U.S. Navy, 1941-46; Service in World War II
Byron Raymond White Colorado	8 Jun 1917 Fort Collins, CO	n/a	16 Apr 1962-present	Lieutenant, U.S. Navy Reserve, 1942-46; Service in World War II

NAME AND STATE OF RESIDENCE	BIRTH	DEATH	TERM OF OFFICE	MILITARY SERVICE
Arthur Joseph Goldberg Illinois	8 Aug 1908 Chicago, IL	19 Jan 1990 Washington, DC	1 Oct 1962-25 Jul 1965	Major, U.S. Army, 1942-44; Service in World War II; Colonel, U.S. Air Force Reserve, 1976
Lewis F. Powell, Jr. Virginia	19 Sep 1907 Suffolk, VA	n/a	7 Jan 1972-26 Jun 1987	Colonel, U.S. Army Air Force, 1942-46; Service in World War II
William H. Rehnquist Arizona	1 Oct 1924 Milwaukee, WI	n/a	7 Jan 1972-present	Sergeant, U.S. Army Air Force, 1943-46; Service in World War II
John Paul Stevens Illinois	20 Apr 1920 Chicago, IL	n/a	19 Dec 1975-present	Lieutenant Commander, U.S. Navy Reserve, 1942-45; Service in World War II
Anthony M. Kennedy California	23 Jul 1936 Sacramento, CA	n/a	18 Feb 1988-present	Private First Class, California Army National Guard, 1961



CHAPTER V

Quotations of Supreme Court Justices

CHIEF JUSTICE JOHN JAY

On Civil Liberty:

"Let it be remembered that civil liberty consists not in a right to every man to do just what he pleases; but it consists in an equal right to all the citizens to have, enjoy, and do, in peace, security and without molestation, whatever the equal and constitutional laws of the country admit to be consistent with the public good."

Friedman and Israel, vol I, p. 11

On the Constitution:

"Nothing is more certain than the indispensable necessity of Government, and it is equally undeniable, that whenever and however it is instituted, the people must cede to it most of their natural rights, in order to vest it with requisite powers."

"Let virtue, honor, the love of liberty, and science, be and remain the soul of this constitution, and it will become the source of great and extensive happiness to this and future generations. Vice, ignorance, and want of vigilance will be the only enemy able to destroy it. Against these provide, and of these, be forever jealous. Every member of the state ought diligently to read and study the constitution of his country, and teach the rising generation to be free. By knowing their rights, they will sooner perceive when they are violated, and be the better prepared to defend and assert them. "

On Government:

"The people who own the country ought to govern it."

Frank Monaghan, John Jay, Chapter 15, p. 323 (1935)

"In proportion as the United States assume a national furor, and a national character, so will the good of the whole be more and more an object of attention; and the government must be a weak one indeed, if it should forget that the good of the whole can only be promoted by advancing the good of each of the parts or members which compose the whole."

Friedman and Israel, vol. I, p. 8

"The government of the Union,...is, emphatically, and truly, a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised by them, and for their benefit."

McCulloch v. Maryland, 17 U.S. (Wheat.) 316, 404-405 (1819)

On Justice:

"Justice is indiscriminately due to all, without regard to numbers, wealth or rank."

Georgia v. Brailsford, 3 U.S. (3 Dall.) 483-484 (1794)



CHIEF JUSTICE JOHN MARSHALL

On Accusations:

"The law does not expect a man to be prepared to defend every act of his life which may be suddenly and without notice alleged against him."

Albert J. Beveridge, III, Life of Marshall, 1919

On the Constitution:

"We must never forget that it is a constitution we are expounding."

McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 415 (1819)

"The people made the Constitution, and the people can unmake it. It is the creature of their own will, and lives only by their will."

Cohens v. Virginia, 6 (Wheat) 264, 19 U.S. 264, 389 (1821)

On Government:

"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right."

Marbury v. Madison, 1 Cranch 137, 163 (1803)



CHIEF JUSTICE SOLMON P. CHASE

On the Constitution:

"The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."

Texas v. White, April 12, 1869



CHIEF JUSTICE EDWARD DOUGLASS WHITE

On the Constitution:

"The purpose of the Constitution [was] to create spheres of power in which the national and state governments respectively would be supreme."

Robert B. Highway, Edward Douglas White: Defender of the Conservative Faith, Louisiana State University Press, Baton Rouge, 1981, pg. 147



CHIEF JUSTICE WILLIAM HOWARD TAFT

On the Constitution:

"When fundamental rights are thus attempted to be taken away, we may well subject such experiment to attentive judgment...The Constitution was intended, its very purpose was, to prevent experimentation with the fundamental rights of the individual."

Truax v. Corrigan, 257 U.S. 312, 338 (1921)



CHIEF JUSTICE WARREN E. BURGER

On the Constitution:

"The Constitution--combined with individual responsibility, and with the traditions of home and family--has permitted us to enjoy unprecedented freedom and prosperity, and has served as a model for countless other governments formed by freedom-loving people around the world."

"Why We Revere the Constitution" *The Constitution of the United States of America: The Bicentennial Keepsake Edition* (New York: Byron Preiss Book, 1987), p. 15

"The Constitution was indeed a watershed in the history of governments and, more important, in humanity's struggle for freedom and fulfillment. It behooves all of us to read it, understand it, revere it, and vigorously defend it."

"Why We Revere the Constitution" *The Constitution of the United States of America: The Bicentennial Keepsake Edition* (New York: Byron Preiss Book, 1987), pp. 15-16

"The United States Constitution, our guiding light of freedom, instills the hope of peace and prosperity for all Americans."



CHIEF JUSTICE WILLIAM HUBBS REHNQUIST

On Equality:

"The Constitution requires that Congress treat similarly situated persons similarly, not that it engage in gestures of superficial equality."

Rostker v. Goldberg, June 25, 1981



ASSOCIATE JUSTICE WILLIAM JOHNSON

On the Constitution:

"In the Constitution of the United States--the most wonderful instrument ever drawn by the hand of man--there is a comprehension and precision that is unparalleled; and I can truly say that after spending my life in studying it, I still daily find in it some new excellence."

Elkinsin v. Deliesseline, 8 Fed. Cas. 493 (1823)



ASSOCIATE JUSTICE HENRY BROCKHOLST LIVINGSTON

On the Supreme Court:

"The Court will not take upon itself the high and delicate office of pronouncing any law of the United States unconstitutional, unless the case were so clearly so that it were scarcely possible for any two men to differ in sentiment about it."

Four Score Forgotten Men, Tom W. Campbell, Pioneer Publishing Co., Little Rock, AR, 1950, p. 117



ASSOCIATE JUSTICE JOSEPH STORY

On the Constitution:

"The Constitution of the United States was ordained and established not only by the states in their sovereign capacities, but emphatically, as the preamble of the Constitution declares, by 'the people of the United States.' There can be no doubt that it was competent to the people to invest the general government with all the powers which they might deem proper and necessary; to extend or restrain these powers according to their own good pleasure, and to give them a paramount and supreme authority."

Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 324-25 (1816)

"Its [the Constitution] great truths can be clearly taught and made familiar to the juvenile mind, at the same time, that they may well employ the most exalted powers of the human understanding."

On the People:

"The basis of all the American Institutions, state as well as national, is that the people themselves possess the supreme power, to form, alter, amend, change and abolish at their pleasure the whole structure of their government and of course to reconstruct it in such manner, as from time to time may be most agreeable to themselves."

"Practically speaking, the whole sovereignty belongs to the People, and all power which is exercised by others, is derived from them; and may be increased, diminished, and withdrawn at their pleasure. But the Constitutions of Government until so altered or changed continue the supreme law of the land; and no department of the existing Government has any right to contravene them, or to supercede them."



ASSOCIATE JUSTICE JAMES MOORE WAYNE

On the Constitution:

"Constitutional rights and liabilities cannot be so taken away, or be so avoided."

"[one must] regard the Constitution and law of the country as an expanding and improving law and [be] willing to make a precedent to make possible the conditions of the development of the country, [even] though the letter of the Constitution had not provided for the precedent."

Alexander A. Lawrence, James Moore Wayne, Chapel Hill: University of North Carolina Press, 1943, p. 118-19



ASSOCIATE JUSTICE JOHN ARCHIBALD CAMPBELL

On Arguments:

"If the court will listen, the court will learn."

Marshall Brown, Wit and Humor of Bench and Bar, 1899

On Freedom:

"It was in freedom they expected to find the best auspices for every kind of human success. They believed that equal justice, the impartial rewards which encourage to effort in this land, would produce great and glorious results. They made no provisions for sinecures, pensions, monopolies, titles of nobility, privileges, orders, exempting from legal duty. What they did provide for was that there should be no oppression, no pitiful extraction by petty tyranny, no spoilation of private right by public authority, no yoke fixed on the neck for work to gorge the cupidity and avarice of unprincipled officials, no sale of justice nor of right..."

Friedman and Israel, vol. II



ASSOCIATE JUSTICE SAMUEL FREEMAN MILLER

On the Constitution:

"[The Constitution] is the first successful attempt, in the history of the world, to lay the deep and broad foundations of a government for millions of people and an unlimited territory, in a single written instrument, framed and adopted in one great national effort.

This instrument comes nearer than any of political origin to Rousseau's idea of a society founded on a social contract. In its formation, States and individuals, in the possession of equal rights,--the rights of human nature common to all,--met together and deliberately agreed to give up certain of those rights to government for the better security of others; and that there might be no mistake about this agreement it was reduced to writing, with all the solemnities which give sanction to the pledges of mankind...

It is not only the first important written constitution found in history, but it is the first one which contained the principles necessary to the successful confederation of numerous powerful States...

The United States presents the most remarkable, if not the only successful, happy, and prosperous, federated government of the world."

Memorial Oration Commemorating Centennial of the Constitution, September 17, 1887

"History points us to no government in which the freedom of the citizen and the rights of property have been better protected and life and liberty more firmly secured than the government established by the Constitution of the United States."

Ibid



ASSOCIATE JUSTICE DAVID DAVIS

On the Constitution:

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances."

Ex Parte Milligan, 71 U.S. (4 Wall.) 2, 120-21 (1866)



ASSOCIATE JUSTICE JOHN MARSHALL HARLAN

On Civil Rights:

"In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful."

Plessy v. Ferguson, 163 U.S. 537, 589 (1896)

On the Constitution:

"In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens."

Plessy v. Ferguson, 163 U.S. 537, 559-560 (1896)

On Equality:

"If there is one place under our system of government where all should be in a position to have equal and exact justice done to them, it is a court of justice--a principle which I had supposed was as old as Magna Carta."

Atchison, T. & St. F. R. Co. v. Matthews, 174 U.S. 96, 124 (1899)



ASSOCIATE JUSTICE STANLEY MATTHEWS

On the Constitution:

"The Constitution of the United States was ordained, it is true, by descendants of Englishmen, who inherited the traditions of English law and history; but it was made of an undefined and expanding future, and for a people gathered from many nations and of many tongues; and while we take just pride in the principles and institutions of the common law, we are not to forget that in lands where other systems of jurisprudence prevail, the ideas and processes of civil justice are also not unknown. We should expect that the new and various experiences of our own situation and system will mold and shape it into new and not less useful forms."

Hurtado v. California, 110 U.S., 516

On Law:

"...deny every quality of the law but its age,..."

Hurtado v. California, 110 U.S. 516, 528-29 (1884)

On Life:

"For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."

Yick Wo v. Hopkins, 118 U.S. 356, 370



ASSOCIATE JUSTICE OLIVER WENDELL HOLMES

On the Constitution:

"If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought--not free thought for those who agree with us but freedom for the thought that we hate."

United States v. Schwimmer, 279 U.S. 644, 653 (1928)

"The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic...The question in every case is whether the words used are clear and present danger that they will bring about the substantive evils that Congress has a right to prevent."

Schenk v. United States, 249 U.S. 47 (1919)

On Law:

"Law is not a science, but is essentially empirical."

"Codes and the Arrangement of the Law," 5 American Law Review 1 (1870)

"It will be remembered that the earliest appearance of law was as a substitute for the private feuds between families or clans."

The Common Law, (Boston: Little, Brown, and Company, 1881), p. 248



ASSOCIATE JUSTICE LUCIUS QUINTUS CINCINNATUS LAMAR

On Citizenship:

"My countrymen! Know one another, and you will love one another."

Four Score Forgotten Men, Tom W. Campbell, Pioneer Publishing Co., Little Rock, AR, 1950, p. 275



ASSOCIATE JUSTICE LOUIS DEMBITZ BRANDEIS

On the Bill of Rights:

"Thoughts, emotions, and sensations [demand] legal recognition."

The New York Times Magazine, August 9, 1964, p. 60

On the Constitution:

"Constitutional rights should not be frittered away by arguments so technical and unsubstantial. The Constitution deals with substance, not shadows."

On Liberty:

"Liberty is the greatest developer."

Other People's Money (New York: Frederick A. Stokes Company, 1932), p. 208

On Publicity/Freedom:

"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."

Other People's Money (New York: Frederick A. Stokes Company, 1932), p. 92



ASSOCIATE JUSTICE HUGO LAFAYETTE BLACK

On the Constitution:

"The layman's Constitutional view is that what he likes is Constitutional and that which he doesn't like is unconstitutional. That about measures up the Constitutional acumen of the average person."

New York Times, February 26, 1971

"The establishment of religion clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach."

Emerson v. Board of Education, 330 U.S. 1 (1947)

On the Jury:

"Unfortunately, instances could also be cited where jurors have themselves betrayed the cause of justice by verdicts based on prejudice or pressures. In such circumstances independent trial judges and independent appellate judges have a most important place under our constitutional plan since they have power to set aside convictions."

Toth v. Quarles, 350 U.S. 11, 19 (1955)



ASSOCIATE JUSTICE STANLEY FORMAN REED

On the Jury:

"Our theory of trial relies upon the ability of a jury to follow instructions."

Opper v. United States, 348 U.S. 84, 95 (1954)

On Law:

"The law still has degrees of harshness and courts and legislatures must act in reason."

Toth v. Quarles, 350 U.S. 11, 43 (1955)

On War:

"War is grim business, requiring sacrifice of ease, opportunity, freedom from restraint, and liberty of action."



ASSOCIATE JUSTICE FELIX FRANKFURTER

On Liberty:

"Liberty of thought soon shrivels without freedom of expression. Nor can truth be pursued in an atmosphere hostile to the endeavor or under dangers which are hazarded only by heroes."



ASSOCIATE JUSTICE WILLIAM O. DOUGLAS

On the Constitution:

"The Constitution favors no racial group, no political or social group."

Uphouse v. Wyman, 364 U.S. 388, 406 (1960)

"The press has a preferred position in our constitutional scheme not to enable it to make money, not to set newsmen apart as a favored class, but to bring fulfillment to the public's right to know."

On Democracy:

"The conception of political equality from the Declaration of Independence to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing -- one person, one vote."

Gray v. Sonders, 372 U.S. 368, 381 (1963)

On the Government:

"The American Government is premised on the theory that if the mind of man is to be free, his ideas, his beliefs, his ideology, his philosophy must be placed beyond the reach of government."

On Law:

"The law is not a series of calculating machines where definitions and answers come tumbling out when the right levers are pushed."

The Dissent: a Safeguard of Democracy, 32 J. Am. Jud. Soc., 104, 105 (1948)

On The Supreme Court:

"The Court's great power is its ability to educate, to provide moral leadership."

Interview, Time, November 12, 1973



ASSOCIATE JUSTICE FRANK MURPHY

On Discrimination:

"Distinctions based on color and ancestry are utterly inconsistent with our traditions and ideals. They are at variance with the principles for which we are now waging this war. We cannot close our eyes to the fact that for centuries the Old World has been torn by racial and religious conflicts and has suffered the worst kind of anguish because of inequality of treatment for different groups."

Hirabayashi v. United States, 320 U.S. 81, 110 (1943)

On Liberty:

"Liberty is too priceless to be forfeited through the zeal of an administrative agent."

Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186, 219 (1946)

On the Supreme Court:

"It is true that this Court has played a large part in the unfolding of the constitutional plan (sometimes too much in the opinion of some observers), but we would be arrogant indeed if we presumed that a government of laws, with protection for minority groups, would be impossible without it."

Schneiderman v. United States, 320 U.S. 118, 143 (1943)



ASSOCIATE JUSTICE HAROLD H. BURTON

On the Constitution:

"The Constitution was built for rough as well as smooth roads. In time of war the nation simply changes gears and takes the harder going under the same power.

Duncan v. Kahanamoku, 327 U.S. 304, 342 (1946)



ASSOCIATE JUSTICE THOMAS C. CLARK

On Church & State:

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose of effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality.

Abington School District v. Schempp, 374 U.S. 203, 226 (1963)

On Common Sense:

"There is no war between the Constitution and common sense."

Mapp v. Ohio, 367 U.S. 643, 657, 6 L ed 2d 1081, 1091, 81 S. Ct. 1684 (1961)

On Government:

"Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence (the Constitution). As Mr. Justice Brandeis, dissenting, said in *Olmstead v. United States*, 277 U.S. 438, 485 (1928): "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example...If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

Mapp v. Ohio, 367 U.S. 643, 659 (1961)

On Law:

"The criminal goes free, if he must, but it is the law that sets him free."

Mapp v. Ohio, 367 U.S. 643, 659 (1961)

On Privacy:

"In the relationship between man and religion, the state is firmly committed to a position of neutrality."

New York Herald Tribune, June 18, 1963



ASSOCIATE JUSTICE SHERMAN MINTON

On the Supreme Court:

"We do not sit as a legal critic to indicate how we think courts should act. If a fundamental constitutional right is not presented, we have no duty to perform."

Williams v. Georgia, 349 U.S. 375, 407 (1955)



ASSOCIATE JUSTICE WILLIAM J. BRENNAN

On the Constitution:

"Faith in democracy is one thing, blind faith quite another. Those who drafted our Constitution understood the difference. One cannot read the text without admitting that it embodies substantive value choices; it places certain values beyond the power of any legislature."

Presentation to Georgetown University: "The Constitution of the United States: Contemporary Ratification," October 12, 1985.

"The Justices are charged with deciding according to law. Because the issues arise in the framework of concrete litigation they must be decided on facts embalmed in a record made by some lower court or administrative agency. And while the Justices may and do consult history and the other disciplines as aids to constitutional decision, the test of the Constitution and relevant precedents dealing with that text are their primary tools."

"Inside View of the High Court," New York Times Magazine, Oct. 6, 1963, p. 35 & 100

On the Supreme Court:

"We are summoned to conference by a buzzer which rings in our several chambers five minutes before the hour. Upon entering the conference room each of us shakes hands with his colleagues. The handshake tradition originated when Chief Justice Fuller presided many decades ago. It is a symbol that harmony of aims if not of views is the Court's guiding principle."

"The Chief Justice begins the discussion of each case. He then yields to the senior Associate Justice and discussion proceeds down the line in order of seniority until each Justice has spoken. Voting goes the other way. The junior Justice votes first and voting then proceeds up the line to the Chief Justice who votes last."



ASSOCIATE JUSTICE POTTER STEWART

On Discrimination:

"And I think it is simply not possible for a state law to be valid under our Constitution which makes the criminality of an act depend upon the race of the actor. Discrimination of that kind is invidious per se."

McLaughlin v. Florida, 379 U.S. 184, 198 (1964)

On Judges:

"The most important (judicial qualities are): quality and competence and temperament and character and diligence."

Washington Post, June 20, 1981

On Justice:

"Fairness is what justice really is."

Time, October 20, 1958

On Privacy:

"The Fourth Amendment and the personal rights it secures have a long history. At the very core stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion."

New York Times, March 6, 1961



ASSOCIATE JUSTICE BYRON R. WHITE

On Legal Training:

"Law is no longer accepted by lawyers or others as irrefutable pronouncements from on high. [Lawyers] can no longer view their profession in

isolation. Science, economics, and behavioral disciplines become major determinants in the lawyer's work."

Christian Science Monitor, February 24, 1971



JUSTICE ARTHUR J. GOLDBERG

On Law Enforcement:

"If law is not made more than a policeman's nightstick, American society will be destroyed."

Speech, reported in the New York Times, June 22, 1969

On the Supreme Court:

"It has been rightly said of our Court that it is a national schoolmaster and of our opinions that they represent the dialogue of the participants in a great seminar dedicated to the realization of the goals and values of our constitutional democracy."

"Reflections of the Newest Justice," New York State Bar Journal (October, 1963). p. 357



ASSOCIATE JUSTICE THURGOOD MARSHALL

On Judges:

"We must never forget that the only real source of power that we as judges can tap is the respect of the people."



ASSOCIATE JUSTICE HARRY A. BLACKMUN

On Judges:

"It's easier to be cynical than to be correct. I know that from the judging business. It's easier to write a stinging dissent than a persuasive majority opinion."

On the Supreme Court:

"I can't get alarmed when [the Supreme Court] overrules a prior decision, especially if it is 5-4. Who is to say that five men 10 years ago were right whereas five men looking the other direction today are wrong."

"I think it's so easy, because of the pressures here [on the Court] and the demands on our time, for us [justices] to stay in our ivory tower and not get out. I think we are too confined at times. It doesn't seem to me that we should hit the political circuit, but it's good to hear the voices of America from a different podium than the rostrum before us."



ASSOCIATE JUSTICE LEWIS F. POWELL, JR.

On Civil Rights:

"Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids...."

University of California v. Bakke, 438 U.S. 265, S. Ct. 2733, 57 L. Ed. 2d 750 (1978)

On the Supreme Court:

"I go into the Court with deep personal misgivings whether I'll like it. In fact, I rather suppose I won't...But the Supreme Court has a very special place in the life and attitude of any lawyer of my age...For those of my generation, it is a revered institution, the pinnacle of our profession."

Interview, Washington Post, October 24, 1971

"The Court is...perhaps one of the last citadels of jealously preserved individualism. For the most part, we function as nine, small independent law firms."

Los Angeles Times, July 9, 1978



ASSOCIATE JUSTICE JOHN PAUL STEVENS

On Judicial Decisions:

"Judges should impose on themselves the discipline of deciding no more than is before them."

American Legion Magazine, 100:9 February 1976

On Religion:

"Just as the right to speak and the right to refrain from speaking are complementary components of a broader concept of individual freedom of mind, so also the individual's freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority. At one time it was thought that this right merely prescribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Mohammedism or Judaism.

"Just when the underlying principle has been examined in the crucible of litigation, the Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all."

Wallace v. Jaffree, No. 83-812 (1985)



ASSOCIATE JUSTICE SANDRA DAY O'CONNOR

On the Supreme Court:

"I do not believe it is the function of the judiciary to step in and change the law because the times have changed. I do well understand the difference between legislating and judging. As a judge, it is not my function to develop public policy."

"...the proper role of the judiciary is one of interpreting and applying the law, not making it...."



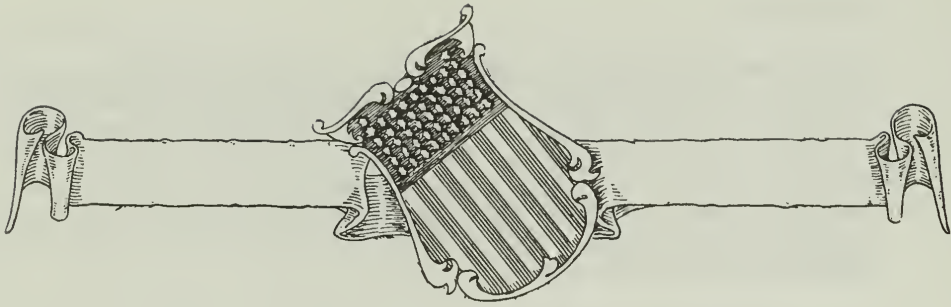
ASSOCIATE JUSTICE ANTONIN SCALIA

On the Constitution:

"The word 'unAmerican' has no equivalent in any other nation. It would mean nothing in French or German political debate to call a particular idea (let us say the abolition of the rights of free speech) 'unFrench' or 'unGerman.' Unlike any other nation in the world, we consider ourselves bound together, not by genealogy or residence but by belief in certain principles; and the most important of those principles are set forth in the Constitution of the United States."

Speech delivered during Bicentennial Commemoration, 1989





CHAPTER VI

Three Judicial Lessons and Teaching Guides

LESSON PLAN 1

What is judicial review and why is it controversial?

Purpose of Lesson 1

Judicial review is the power of the judicial branch of a government to declare acts of the legislative and executive branches to be in violation of the government's constitution. When a court makes such a decision, it orders that the decision made by the other part of the government be considered "null and void" which means that it is not to be obeyed or enforced. In the United States, the federal judiciary, headed by the Supreme Court, now has this power over all parts of our government. State courts have this power over other branches of state governments.

Throughout our history, there have been great differences of opinion about whether the judicial branch should have this power and how it should be used. The controversy raises basic questions about representative government and majority rule on the one hand, and constitutional government and the protection of basic rights and unpopular minorities on the other hand.

This lesson and the next will explain how the Supreme court gained the power of judicial review and help you understand the continuing controversies that have resulted from its having this power.

When you finish this lesson, you should be able to explain the different positions regarding judicial review and its role in a constitutional democracy. You should also be able to describe the issues raised and the argument of the Supreme Court in the case of *Marbury v. Madison*. The following ideas and terms are contained in this lesson.

null and void
judicial review
unconstitutional

supremacy clause
writ of mandamus
Marbury v. Madison

Should the Supreme Court have the power to declare acts of the President and Congress unconstitutional?

One of the new ideas about government that developed in this nation was the idea that the Supreme Court and lower courts in the judicial branch should have the power to interpret the Constitution and decide what it means. In some situations, this means that the Supreme Court will order that a law passed by a majority in Congress or in a state legislature violates the Constitution and therefore is not to be obeyed or enforced.

Problem solving

Do you think the Supreme Court should have the power of judicial review?

Suppose you could step back in time to decide whether the Supreme Court should be given the power of judicial review over acts of Congress. Study the

choices below, the results of each, and be prepared to take and defend a position in favor of one of the alternatives.

Choice 1. Give the Supreme Court the power to declare laws passed by Congress unconstitutional..

Result. The Supreme Court would have the power to order that a law that had been passed by a majority of representatives in Congress, who were elected by citizens to represent their interests, should not be obeyed or enforced.

Choice 2. Deny the Supreme Court the power to declare laws passed by Congress unconstitutional.

Result. This would mean that all laws passed by a majority of representatives in Congress must be obeyed and enforced.

In order to develop and defend your decision, consider the following questions.

1. Does your choice conflict with the principles of representative government and majority rule? If so, how?
2. Is your choice more democratic? If so, how?
3. Might your choice place basic rights at the mercy of temporary emotions and current popularity?
4. Might your choice result in the majority tyrannizing the minority? If so, how?

How did the Supreme Court get the power of judicial review?

If you read the Constitution, you will not find any mention of the power of judicial review. As you will see, however, soon after the beginning of the new government, the Constitution was interpreted to give the Supreme Court this power.

Judicial review under British and state governments

The Founders were familiar with the idea that some part of government should be given the power to decide whether activities of the other parts of government had violated the "higher law" of a nation. Under British rule, the Privy Council, a group which advised the king, had the power to overrule decisions made by colonial courts if they violated English laws. Following the Revolution, some state constitutions gave this power to the judicial branches of their governments. Even though the belief in legislative supremacy was strong, several state courts had declared laws made by their legislatures to be unconstitutional.

The Supreme Court gains the power of judicial review over state governments

The Framers of the Constitution wanted to correct a basic weakness in the national government under the Articles of Confederation. As you have learned, under the Articles, the states had the right to decide whether or not they would obey and enforce the laws of the national government. To strengthen the new government, the Framers wrote Article VI, which, in part, reads:

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made ...under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

As you have learned, this section of the Constitution is known as the supremacy clause. It has been interpreted to mean that the Supreme Court can order that state laws not be enforced if they violate federal laws or the Constitution. The First Congress also made this power clear in the Judiciary Act of 1789.

The Supreme Court first used its power of judicial review over state governments in 1796. After the Revolutionary War, the United States had signed a peace treaty with the British that said all debts owed by Americans to English citizens would be paid. However, the state of Virginia had passed a law which cancelled all debts owed by Virginians to British citizens. Since this law clearly violated the peace treaty, the Supreme Court ruled that the law could not be enforced because the laws and treaties of the federal government are the supreme law of the land. As a result, citizens of Virginia were responsible for paying their debts.

The Supreme Court establishes its power of judicial review over Congress

The question of whether the Supreme Court should have the power of judicial review over the legislative and executive branches of the federal government was discussed during the Philadelphia Convention and the debates over ratification. But, no decision was made that clearly gave the Court this power. However, many historians believe that a majority of the framers supported this idea. Some of the Framers assumed that the Court would have this power. Alexander Hamilton, for example, made this assumption in *The Federalist*.

The story of how the Supreme Court established its power of judicial review over the other branches of the federal government involves one of the most famous cases in our history, the case of *Marbury vs. Madison*, which was decided in 1803. The following describes this case and its results.

The Case of Marbury v. Madison

After Thomas Jefferson defeated the Federalist president, John Adams, in the election of 1800, Adams had several weeks remaining in office. During this time, Adams wanted to make sure that the Federalists would continue to influence the government long after Jefferson and the Republicans took over. The Federalists,

who controlled Congress, passed a new judiciary act creating a number of new federal courts. Adams filled the new positions on these courts with Federalists. He also appointed his secretary of state, John Marshall, to be the Chief Justice of the Supreme Court.

When Thomas Jefferson became president, some of the documents which officially gave a number of Federalists their new jobs as judges had not been delivered to them. John Marshall had apparently forgotten to do this in his last days as Secretary of State before taking the position of Chief Justice. Jefferson did not want more Federalists serving as judges, so he ordered the new Secretary of State, James Madison, not to deliver the documents.

President Adams had appointed William Marbury to serve as justice of the peace for the District of Columbia. Marbury wanted the job and was upset with Jefferson's decision not to give it to him. He tried to find a way to get what he believed was rightfully his. He discovered that the Judiciary Act of 1789 gave the Supreme Court the power of writ of mandamus. A writ of mandamus is a court order that forces an officer of the government to do something that person is supposed to do, such as, in this case, deliver the documents that had been officially approved.

Marbury knew that John Marshall, a Federalist, was now Chief Justice, and he believed Marshall would be sympathetic with his situation. He decided that the best way to get his new position was to ask the Supreme Court to issue a writ of mandamus ordering Madison to deliver the document.

This put Chief Justice Marshall in a difficult position. He was worried about what might happen if he ordered Madison to deliver Marbury's document and President Jefferson ordered him not to, as he had threatened to do. Courts must rely on the executive branch for the enforcement of the laws. If Jefferson were to refuse to obey the decision of the Supreme Court, it would make the Court appear weak and powerless. However, if the Supreme Court did not order the President to deliver the document, the Court would also look weak.

The Major Issues in Marbury v. Madison

Chief Justice Marshall was faced with a difficult problem. He thought of a remarkable solution that let him avoid a confrontation with the President and, at the same time, establish the Supreme Court's power of judicial review. In arriving at this solution, Marshall asked three key questions.

1. Does Marbury have a right to the appointment?
2. If Marbury has a right to the appointment and his right has been violated, do the laws of the country give him a way to have things set right?
3. If the laws of the country give Marbury a way to deal with this problem, is that way a writ of mandamus from the Supreme Court?

Marshall's Decision

Marshall answered "yes" to the first two questions and "no" to third. His reasoning was as follows.

1. Does Marbury have a right to the appointment?

Marshall reasoned that the appointment had been signed by the President and sealed by the Secretary of State; therefore, Marbury had the right to hold the office for five years as provided by law.

2. Do the laws of the country give Marbury a way to have things set right?

Marshall reasoned that the Secretary of State is an officer of the government directed by the Constitution and laws made by Congress to perform certain duties such as delivering the documents. When the Secretary of State refused to do so, he broke the law and violated Marbury's rights. Marbury had the right to go to a court and ask it to order the Secretary of State to deliver his document and to give him the job approved by the President.

3. Is asking the Supreme Court for a writ of mandamus the right way for Marbury to try to set things right?

On this point, Marshall said "no". He argued that the part of the Judiciary Act that gave Marbury the right to ask the Supreme Court to issue a writ of mandamus was unconstitutional. The Constitution clearly limits the Supreme Court's original jurisdiction, that is, the cases it can hear without their first being heard by a lower court, to "cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party." Marbury was not an ambassador, a minister, consul, or a state, so the Supreme Court did not have the power to hear his case unless it was first heard in a lower court and then appealed to the Supreme Court.

Marshall reasoned that the part of the Judiciary Act that gave Marbury the right to have his case heard by the Supreme Court changed the Constitution. Since Congress did not have the authority to change the Constitution, that part of the Judiciary Act was unconstitutional.

Chief Justice Marshall did not order Secretary Madison to deliver the documents. Thus, the Court avoided the almost certain embarrassment of having the president, Thomas Jefferson, refuse to obey the Court's order. In the process, Marshall gained a much more important power for the Supreme Court. By declaring a part of the Judiciary Act unconstitutional, the Supreme Court gained the power of judicial review to declare acts of Congress and the President unconstitutional simply by exercising it.

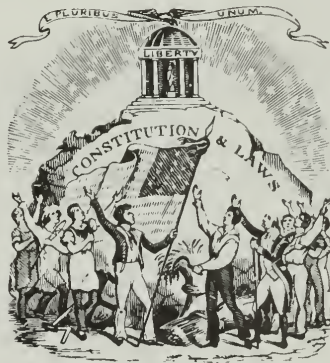
The Supreme Court as the guardian of the people's Constitution

In the beginning of this lesson, you were asked to take a position on whether or not the Supreme Court should have the power of judicial review over acts of Congress. This is the question Chief Justice Marshall dealt with in the case of *Marbury v. Madison*, and he decided the Court should have this power.

Marshall justified his decision with the following argument. When the people of this nation adopted the Constitution to be the supreme law of the land, they had consented to be governed by its rules, which included important limitations upon the powers of Congress. When Congress violates those limitations, it has violated the will of the people. If the Supreme Court were not to have the power of judicial review, there would be no effective way to enforce the limitations the people have placed upon the powers of Congress in the Constitution. Its powers would be unlimited, and we would no longer have a constitutional government.

Reviewing and using the lesson

1. What is "judicial review"?
2. Outline the facts of the Supreme Court case by which judicial review became an accepted principle of our system of government. By what reasoning did Chief Justice John Marshall reach his decision?
3. One of the central principles of democratic government is that the will of the majority, expressed through its representatives, must prevail. The practice of judicial review may contradict this principle. How? What arguments can you develop in support of judicial review?
4. If you do not approve of the practice of judicial review, what alternative would you propose for settling disagreements over the meaning of the Constitution? Defend your choice.
5. Compare *Marbury v. Madison* and the Virginia and Kentucky Resolutions as methods of controlling the power of the federal government.



TEACHING GUIDE LESSON PLAN 1

What is judicial review and why is it controversial?

LESSON OVERVIEW

This lesson deals with the power of the United States Supreme Court to exercise judicial review over the actions of state legislatures and the other two branches of the federal government. Throughout our history, there have been great differences of opinion about whether the judicial branch should have this power and how it should be used. The controversy raises basic questions about representative government and majority rule, on the one hand, and constitutional government and the protection of basic rights and unpopular minorities, on the other. In an introductory problem-solving segment of the lesson students are asked to make a decision concerning whether the Court should be given the power of judicial review, basing their choice on the consequences of the two alternatives.

The lesson then turns to the famous case of *Marbury v. Madison* and traces Chief Justice John Marshall's reasoning in claiming the power of review for the Supreme Court. The lesson concludes with an explanation of Marshall's position on the function of judicial review in a constitutional democracy.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the differing arguments on whether the Supreme Court should have the power of judicial review.
2. Students should be able to explain the relationship of judicial review to representative democracy and constitutional government.
3. Students should be able to describe how Chief Justice Marshall claimed the power of judicial review for the Supreme Court in the case of *Marbury v. Madison* and explain his argument.

TEACHING PROCEDURES

A. Reading, Group Activity, and Debate: Understanding the issues raised by the practice of judicial review

Introduce the lesson by asking the class to recall any cases they have heard about in which a court declared a legislative act unconstitutional. Explain to the students that they will be reading about judicial review, a fundamental power of the Court, and how the Court acquired that power.

Ask students to read the introductory section, "Should the Supreme Court have the power to declare acts of the President and Congress unconstitutional?" Make

sure the students understand what judicial review means. Then divide the class into groups of three to five students each to complete the "Problem solving" exercise. Lead students in a discussion of their responses to the questions contained in the exercise.

If you wish, you may have students take and debate opposing positions on the issue contained in the "Problem solving" exercise.

B. Reading and Discussion:
Understanding the origins of judicial review

Have students read "How did the Supreme Court get the power of judicial review?" and "Judicial review under British and state governments." Students should understand that although the Constitution does not explicitly give the Court the power of judicial review, the Founders believed that some part of the government should be given such power to decide whether other parts of government had violated the higher law.

C. Reading and Discussion:
**Understanding how the Supreme Court was given the power of
judicial review over state governments**

Have the students read "The Supreme Court gains the power of judicial review over state governments." Discuss with students how the supremacy clause and the Judiciary Act of 1789 made clear the authority of the court to declare actions of state governments invalid under the Constitution. They should also know that the Supreme Court first used this power over a state government in 1796.

D. Reading and Discussion:
**Understanding how the Supreme Court gained the power of judicial
review over the other branches of the federal government**

Have students read from "The Supreme Court establishes its power of judicial review over Congress" up to, but not including, "The Supreme Court as the guardian of the people's Constitution." Remind students how the question of judicial review over acts of the federal government was discussed during the Philadelphia Convention. They should understand that while the Constitution does not explicitly give the Court this authority, many of the Framers supported the idea. It was not until 1803 in the case of *Marbury v. Madison* that the Court explicitly claimed this authority. Lead them in an analysis and discussion of the *Marbury* case and make sure they understand the basic facts, decision, and reasoning of the opinion.

E. Reading and Discussion:
Understanding Marshall's position on the role of the Supreme Court

Have students read "The Supreme Court as the guardian of the people's Constitution." Lead them in an analysis of Marshall's position and in a discussion of whether they agree or disagree with it.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions included in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students read a detailed account of the Marbury case in a biography of Marshall. They should report to the class on the arguments presented to the Court which were rejected by Marshall.

2. Students may read a biography of Jefferson or a collection of his letters to learn about his reaction to the decision in the Marbury case.

3. Select three students, one to research each of the following cases: *Fletcher v. Peck*, 6 Cranch 87 (1810); *Dartmouth College v. Woodward*, 4 Wheaton 518 (1819); and *Gibbons v. Ogden*, 9 Wheaton 1 (1824). Each student should report the facts of the case to which he or she has been assigned, the decision, and the significance of the decision to contemporary events.

4. The following moot court activity is designed to help students understand the basic issues and importance of the case of Marbury v. Madison. The procedure is as follows.

Step 1 - Reviewing the facts in the case.

A. Have students read the section "The case of Marbury v. Madison" in the text. Have them read to the end of the fifth paragraph.

B. Ask them to recite the facts in the case. Record their responses on the board.

C. When the recitation of facts is concluded, ask the following questions, which will help the students distinguish the important facts: (1) Who are the parties involved? (2) Which facts occurred that led to a legal suit? (3) Which facts might not be important to the case?

Step 2 - Clarifying the issues in the case.

A. List on the board the three major issues in *Marbury v. Madison* as presented in the student text.

B. Discuss each issue to ensure the class understands the key questions raised by the facts in the case.

Step 3 - Preparation of the arguments in the case.

A. Divide the class into three groups. One group will role play the part of judges, the second group the part of Marbury, and the third group the part of Madison.

B. Instruct the Marbury and Madison groups to prepare arguments which will answer the issues you listed earlier on the board.

C. Instruct the judges' group to prepare questions which they can ask of the other two groups. These questions should help the judges clarify the arguments to be made during the presentation portion of the activity.

D. Tell the class that every student will individually have a part to play in the next phase of the role play. During the preparation period, you may wish to spend some time with each group to assist students with the structuring of their arguments or questions.

Step 4 - Presenting oral arguments.

A. Restructure the class into groups of three students each. One student from each of the groups in Step 3 will be in the newly reconstituted groups. The class will be organized into multiple groups of three students. All groups will be presenting their cases simultaneously.

B. The student from the Marbury group will present his/her argument to the judge first. Then, the student from the Madison group will give his/her presentation. The judge may interrupt the presenter to clarify points in the arguments.

C. When the judges have heard arguments from both parties, they will be called upon to make a decision in the case.

Step 5 - The decision in the case.

A. Call on each of the judges to announce his/her ruling, and record the responses on the board. Each judge should explain the reasoning behind his/her decision.

B. Conclude the activity by referring the students to Chief Justice Marshall's decision in the case. Discuss Marshall's reasoning in the Supreme Court decision.

LESSON PLAN 2

What is due process of law?

Purpose of Lesson 2

In this lesson we will begin to look at part of the Fourteenth Amendment, the due process clause. This clause is considered one of the most important in the Constitution. It has been the basis for many of the Supreme Court's decisions limiting the authority of both federal and state governments in order to protect the basic rights of the people.

You will learn the difference between substantive and procedural due process and how each protects your rights to life, liberty, and property. You will also learn about the process called incorporation which makes the most fundamental protections of the Bill of Rights apply against state actions.

When you have completed the lesson, you should be able to describe substantive due process and explain some of the changes in the application of this idea that have taken place. You should also be able to show how the protections of the Bill of Rights have been incorporated into the Fourteenth Amendment. Basic ideas and terms introduced in this lesson which you should be able to explain are listed below.

incorporation
due process
substantive due process

procedural due process
laissez faire

Due Process and the Fourteenth Amendment

The due process clause of the Fourteenth Amendment says:

nor shall any State deprive any person of life, liberty, or property, without due process of law...

The same clause appears in the Fifth Amendment. But the Fifth Amendment and the rest of the Bill of Rights, originally applied only to the federal government. For more than the first hundred years of the history of our nation, the Bill of Rights was not applied to the acts of state governments. Gradually, after the Fourteenth Amendment was passed, this changed, and today most of your protections under the Bill of Rights are also protections against actions by state governments, through interpretations of the due process clause of that amendment.

What is due process of law?

It is impossible to give an exact definition of the phrase "due process of law." The term was first used in England in 1354, in rewording of the Magna Carta. Its first use in an American constitution was in the Fifth Amendment, as part of the wording recommended by James Madison. There was no discussion of its meaning at that time. The Supreme Court in the various cases that have come

before it has interpreted it to mean, in a general sense, the right to be treated fairly by government.

The due process clause, as interpreted by the courts, requires:

- that the content of laws passed by legislatures be fair and reasonable. This is called substantive due process.
- that the procedures for conducting hearings and applying and enforcing the law be fair and reasonable. This is called procedural due process.

In this lesson, we will look at the different ways the Supreme Court has interpreted the due process clause when asked to decide whether the content of laws is fair and reasonable. In other words, do the laws place unfair limitations on people's rights to life, liberty, or property?

In the next lesson, we will look at the ways the Supreme court has used the due process clause the attempt to ensure fairness in the procedures used by the executive and judicial branches in enforcing laws made by the legislatures.

Due process and the protection of property rights

From the 1880's to the 1930's, the Supreme Court used the idea of substantive due process to protect the property rights of citizens from what it considered unreasonable and unfair treatment by state legislatures. The Court's interest focused upon that phrase of the Fourteenth Amendment which says, "nor shall any State deprive any person of... property without due process of law." This emphasis, which lasted over fifty years, led to increasing conflicts and finally to important changes in the interpretation of this phrase.

During the late 1880's, there were many serious problems caused by the rapid growth of American industry as large factories and mass production replaced small craftsmen and merchants. The people injured were the farmers and laborers. The farmers' interests were often endangered by large railroad companies which controlled the cost of sending produce to market. The factory workers were often forced to work for long hours, in dangerous condition, for very low pay. Child labor in factories was common in some states.

To protect the interests of the farmers, laborers, and children, the state legislatures passed a number of laws. Some laws limited the rates the railroad owners could charge farmers for sending their products to market. Other laws required factory owners to improve working conditions, limited working hours, and established minimum wages. Laws were also passed outlawing or regulating child labor.

When the state legislatures passed these laws, they claimed they were promoting the common welfare of the people. Critics disagreed. They thought the best way to promote the common welfare was for government to leave the economy alone. This policy was known by the French phrase, laissez faire. The people who supported laissez faire argued that laws which regulated various forms of economic activity and working conditions did not promote the common welfare, but instead

furthered the interests of some groups at the expense of others. The laws, they claimed, protected the interests of farmers and laborers at the cost of violating the property rights of those who owned the railroads and factories.

The Supreme Court from 1880 to 1937 was composed for the most part of justices who considered most social welfare legislation to be unreasonable and unfair limitations on citizens' rights to property. They interpreted the due process clause of the Fourteenth Amendment in a way that found unconstitutional state laws enacted to limit working hours, establish minimum wages, regulate prices, and bar employers from firing workers for belonging to labor unions. For example, in 1905, the Supreme Court declared a New York law unconstitutional because it limited the work week of bakery employees to sixty hours. It claimed that this was an unreasonable limitation on the freedom contract. The Court consistently found laws that limited people's property rights to be unconstitutional except in situations where it was convinced that the laws were absolutely necessary to protect public health or safety.

Which should decide what is fair--the courts or the legislatures?

When the Supreme Court decides that a law is unreasonable and unfair and thus unconstitutional, the question is raised as to what is "reasonable" and "fair." The problem is that what one person thinks is reasonable and fair may be considered unreasonable and unfair by another person. Opinions on such matters often depend, at least in part, upon a person's knowledge and experience and upon the person's economic, social, and political views. When the Court makes a decision on such a question, the decision is made by a majority of the nine justices, who have not been elected by the people and who cannot easily be removed from their positions.

In democracies, elected members of government are supposed to be responsible for taking into account people's differing ideas of what is reasonable and fair when they pass and enforce laws that place limitations on you "life, liberty and property" in order to protect the common welfare. Critics of the Supreme Court have often argued that when the Court decides that its interpretation of what is reasonable and fair is correct and that a law passed by a state legislature is unreasonable and unfair, it is acting like a "super legislature." The critics claim that in our system the Congress and state legislatures have the responsibility to decide what the nation's economic policies should be rather than the Supreme Court. As a result of political and economic changes and new appointments to the Supreme Court, the Court stopped holding laws regulating property rights and the economy unconstitutional under the due process clause.

Problem solving

What is fair and reasonable?

1. Suppose you work to begin your own business, and then hire a number of people to work for you. Your state government has laws which tell you that you cannot ask the people to work more than a certain number of hours and you cannot pay them less than a certain amount per hour. Is this an unreasonable and unfair limitation upon your right to liberty and property? Why?

2. Suppose you are a member of a state legislature that has passed a law protecting children from labor practices the legislature considers abusive, and the Supreme Court says the law unfairly violates the property rights of the employer responsible for such practices. Is this an unreasonable and unfair limitation on your right and obligation to pass laws to promote the general welfare? Why?

Due process and the protection of liberty

During the 1930's, the Supreme Court began to interpret the due process clause of the Fourteenth Amendment in another important way. This change focused on the meaning of the words "nor shall any state deprive any person of ... liberty... without due process of law ..." Attention had shifted to concern with the civil liberties of the people.

Since the late 1930's, the word "liberty" in the due process clause of the Fourteenth Amendment has been interpreted by the Supreme Court to include, gradually, almost all the rights guaranteed in the first eight amendments of the Bill of Rights. The process of making these rights apply to state governments is called incorporation. In this process, the various rights contained in the Bill of Rights have been held to be incorporated, one by one, into the Fourteenth Amendment and therefore applicable to the states. Controversy arose, and continues today, over how this section of the due process clause should be interpreted.

What rights should be protected?

Most of the disagreements involve the meaning of the individual rights listed in the Bill of Rights and the extent to which they can be limited by Congress or state legislatures. Like most of the Constitution's clauses, the individual rights listed need to be interpreted. For example, the First Amendment contains the statement that "Congress shall make no law...abridging the freedom of speech ..." What is meant by "speech"? Is wearing black arm bands to protest a war a form of speech? Do laws that prevent people from using loudspeakers to advertise in neighborhoods at night violate free speech? Does the protection of freedom of religion mean that the state cannot control any religious practices?

These are the kinds of questions that arise in deciding whether laws made by federal and state legislatures violate the protections of your rights listed in the bill of Rights. Ultimately, these questions are decided in the Supreme Court.

Among the rights which have been protected by decisions of the Supreme Court under the due process clause is the right to travel to foreign countries, even though it is not a right specifically listed in the Bill of rights. The Supreme Court has found laws passed by Congress restricting that right to be unconstitutional. In a 1958 case, Justice William Douglas stated,

The right to travel is a part of the "liberty" of which the citizen cannot be deprived without due process of law under the Fifth Amendment ...In Anglo-Saxon law that right was emerging at least as early as the Magna Carta... Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage...It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of

movement is basic in our scheme of values... Our nation...has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases.

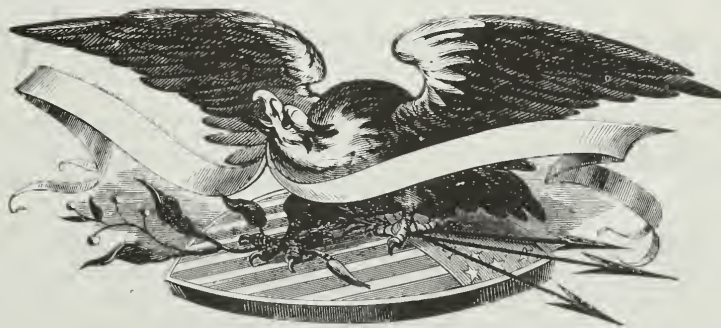
Reviewing and using the lesson

1. What is the basic purpose of "due process of law"? Distinguish between substantive due process and procedural due process.

2. A factory owner of the late 19th century might think that a state law requiring him to install safety devices was a violation of his rights under the 14th Amendment. Explain how he would support his position.

3. The federal courts often have to choose between "property rights" and the "common welfare" of the people when they decide whether or not a particular law is constitutional. What was the position usually taken by the courts from 1880-1937? Give some examples that illustrate their position.

4. In the late 19th century the courts focused on the word "property" in the 14th amendment. Since the 1930's their attention has shifted to the liberties which may not be denied to Americans by their state governments. What liberties have been protected against state interference by this recent emphasis? Where in the Constitution would you look to find out what these liberties are?



TEACHING GUIDE LESSON PLAN 2

What is due process of law?

LESSON OVERVIEW

This lesson deals with the "due process" clause of the Fourteenth Amendment. This clause is considered one of the most important in the Constitution because it is the basis of many Supreme Court decisions limiting the authority of both federal and state governments in order to protect the basic rights of the people. Students learn the difference between substantive and procedural due process. This lesson is about substantive due process. Procedural due process will be dealt with in Lesson 3.

The student will learn how the Supreme Court used the idea of substantive due process from the 1880's to the 1930's. During this period, the Court used this idea to invalidate laws it believed violated property rights. By the 1930's, however, the Supreme Court's emphasis shifted from using the due process clause to protect "property" rights to using it to protect "liberty." It did this by the process known as incorporation, that is, the interpretation of the due process clause of the Fourteenth Amendment to include specific provisions of the Bill of Rights and thus limit state governments' intrusion upon those rights.

LESSON OBJECTIVES

At the conclusion of the lesson:

1. Students should be able to define substantive due process.
2. Student should be able to describe how the Supreme Court originally used the principle of substantive due process to protect "property" rights and later shifted its emphasis to protect "liberty" rights.
3. Students should be able to describe how the courts used judicial interpretation to "incorporate" the Bill of Rights into the Fourteenth Amendment.
4. Students should be able to apply the principle of substantive due process to hypothetical situations.

TEACHING PROCEDURES

A. Reading and Discussion: Understanding definitions of substantive and procedural due process

Introduce the due process clause by writing on the board "nor shall any State deprive any person of life, liberty, or property, without due process of law." Have students consider the meaning of these words. How does the due process clause in the Fourteenth Amendment differ from the due process clause in the Fifth Amendment?

Next, ask students to read the introductory paragraph and the sections "Due Process and the Fourteenth Amendment" and "What is due process of law?" Help the students to clarify their understanding of due process and of the difference between substantive and procedural due process.

B. Reading and Discussion:

Understanding the history of the use of substantive due process to protect property rights

Have students read "Due process and the protection of property rights." Discuss with students the differing notions of "reasonableness" and "fairness" and why these terms are difficult to define. In the text, what did "fairness" mean to the factory owners? What did it mean to the factory workers?

C. Reading and Group Activity:

Examining the question of who should determine what is reasonable and fair

Have students read "Which should decide what is fair--the courts or the legislatures?" Divide students into groups of three to five and ask them to complete the problem-solving exercise, "What is fair and reasonable? Have the groups report their answers to the class for further discussion.

D. Reading and Discussion:

Understanding the extension of the Bill of Rights to the states

Have students read "Due process and the protection of liberty" and "What rights should be protected?" Be sure students understand the process of incorporation of the Bill of Rights under the due process clause of the Fourteenth Amendment. Then discuss with students some of the questions raised in the text regarding the difficulties of applying the protections of the Bill of Rights.

E. Reading and Problem Solving:

Understanding substantive due process

To give students an increased understanding of some of the kinds of issues that may be raised under the substantive due process clause of the Fourteenth Amendment, have them complete the following exercise.

Divide the class into groups of three to five students. Distribute Student Handout VI. Instruct students to discuss each situation in the handout and determine whether they think it should be considered a violation of the substantive due process requirement that laws be "reasonable" and "fair."

Discuss student responses and the reasons they give supporting them.

F. Concluding Activity

Conclude the lesson by leading a discussion of the questions contained in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Have students do research on one of the following cases:

Lochner v. New York, 198 U.S. 45 (1905)
Gitlow v. New York, 268 U.S. (1925)
Pierce v. Society of Sisters, 268 U.S. 510 (1925)
Tinker v. Des Moines, 393 U.S. 503 (1969)

Students should examine the facts, issues, holdings, and reasoning in the case and report their findings to the class.

2. Conduct a moot court using any one of the above cases.
3. Have students research and report on the controversy over "Miranda Rights." *Miranda v. Arizona*, 384 U.S. 436

STUDENT HANDOUT

Substantive Due Process

Each of the following situations involves a question of substantive due process. If you believe it represents an unfair or unreasonable use of law or regulation and therefore not permissible, enter an "N" in the blank. If you believe the law or regulation is permissible, place a "P" in the blank. be prepared to explain your reasoning.

- 1._____ A state passes a law prohibiting the hiring of persons with red hair from working in government offices.
- 2._____ Congress passes a law restricting travel to foreign countries by persons suspected of advocating the overthrow of the United States government.
- 3._____ A state passes a law which makes it illegal for schools to teach children any language other than English, except classical languages like Greek, Latin, or Hebrew.
- 4._____ A state law requires that children of unwed fathers become wards of the state if their mother dies.
- 5._____ A police department passes a regulation governing hair length, beard, and moustaches worn by police officers.
- 6._____ A state law directs local police chiefs to post a notice in bars and liquor stores that identifies particular persons who, because of excessive drinking, should not be sold or served any liquor.

7. _____ A state law directs police departments to mail "fliers" to local merchants identifying "active shoplifters."

8 _____ A state law requires that a person be 18 years old to vote.

9. _____ A state law requires that a person be a high school graduate before being issued a driver's license.

10. _____ Congress passes a law drafting men into the armed forces. The law specifically excludes women from the draft.



LESSON PLAN 3

How does procedural due process protect your rights to life, liberty, and property?

Purpose of Lesson 3

As you have learned, the Fifth and Fourteenth Amendments contain protections of your rights under their due process clauses. In the last lesson, you learned that "due process" has been interpreted to mean, in part, that the content of laws must be reasonable and fair. The requirements of procedural due process apply in some degree to all of the branches and functions of government. However, in this lesson we will focus specifically on one of their most important applications, that is, to criminal procedures. By showing how these procedural protections might apply to you, we hope to increase your understanding of their importance as part of your rights to life, liberty, and property.

When you have completed this lesson, you should be able to explain the meaning of procedural due process and the reasons for its various protections. Basic ideas and terms included in the lesson which you should be able to explain are listed below.

procedural due process
Fourth Amendment
unreasonable search and seizures
Sixth Amendment
notice clause
assistance of counsel
Fifth Amendment

privilege against self-incrimination
writ of habeas corpus
Eighth amendment
bail
trial by jury
cruel and unusual punishment
double jeopardy

The importance of procedural due process

The Founders knew that throughout history governments had used their power to enforce criminal laws in ways that had violated the most basic rights of citizens. This was a lesson they had learned from long and painful experience in both England and in the colonies. The criminal law had often been used as a political weapon. This frequently resulted in punishment of the innocent and unfair and inhumane treatment of the guilty. For this reason, they included in the constitution and the Bill of Rights a number of rights that were specific limitations designed to prevent the possible abuse of power by their government. They were safeguards to protect long-accepted ideas of human freedom, privacy, and dignity from the kinds of attacks they had been subjected to by past governments.

Through the due process clause of the Fourteenth Amendment, most of the procedural protections guaranteed to you by the Constitution and Bill of Rights which originally applied only to the federal government now apply to state governments as well. These protections, taken together, are called procedural due process or due process of law. To understand their importance, let's see how they protect you.

What are your procedural rights and why are they important?

Suppose you are suspected of a crime, arrested, imprisoned while awaiting trial, tried, convicted, and sentenced to prison by a court. What rights are guaranteed to you under the Constitution at each step of the process? How did these rights come to receive the protection of the Constitution? And what is their importance to you and the rest of society?

1. You are suspected of a crime.

Suppose a law-enforcement officer suspects you of having committed a crime. How does the right to due process of law protect you from unfair treatment?

- The Fourth Amendment guarantees that law-enforcement officers cannot search you or your property, arrest you, or take your property unless they can show a good reason for doing so.

This amendment has been interpreted to mean that, except in certain emergencies where they must act quickly, law enforcement officers must get the permission of a judge (in the form of a warrant) to search you or your property, arrest you, or take your property. Further, the judge can only give this permission if the police officer can present reasonable evidence that you may be guilty of a crime, and can describe the evidence being sought. As you can imagine, applying these protections in specific situations can lead to considerable disagreement over such questions as to whether a search or arrest is "reasonable."

The prohibition against unreasonable searches has a long history in English and colonial experience. It dates back to the seventeenth and eighteenth centuries, when judges placed restrictions on the right of police to search people and their homes. The judges had decided this right was necessary when they learned that police had been unreasonable and unfair in searching the homes and meeting places of people with unpopular political and religious beliefs. In the last years of the colonial period, there was public outcry against searches made by British troops which had been made possible by the detested general warrants known as "writs of assistance." A main purpose of the Fourth Amendment was to place strict limits on the issuing of search warrants by judges.

When the Framers placed the protection against "unreasonable searches and seizures" in the Constitution, they could not know of the technological advances that would allow government agents to engage in search methods such as electronic eavesdropping on conversations.

The Supreme Court has dealt with such changes by interpreting your due process protections to mean that you should be given reasonable protections against government eavesdropping. For example, the Supreme court has ruled that the police have to get a warrant before they can tap your phone and listen to your conversations.

2. You have been arrested and taken to jail. What are your rights?

- The Sixth Amendment guarantees you the right to know why you have been arrested.

It contains the "notice clause" which says that you must be informed of the "nature and cause of the accusation" for which you have been arrested. The main purpose of this protection is to give you the information necessary to answer the charges and to prepare to defend yourself.

- The Sixth Amendment also guarantees you the right to have a lawyer help you answer the accusation.

It guarantees you the right to the "assistance of counsel" for your defense. If you are like most people, you probably know little about the law, or about the rights you are entitled to while being held in jail, or about court procedures, such as those that deal with examining witnesses. You would be at a great disadvantage trying to answer charges against you even if you were innocent and had been arrested by mistake.

Until about fifty years ago, the right to counsel was interpreted to mean that you were merely free to hire a lawyer to help you if you wanted one. Since that time, the Supreme Court has interpreted the right to counsel to mean that if you are accused of a crime and are too poor to hire a lawyer, the government must provide one at public expense to represent you at all stages of the criminal proceeding.

- The Fifth Amendment guarantees that you have the right to remain silent both at the time of your arrest and throughout your trial.

This right protects you from being forced to give evidence against yourself. It is contained in the "privilege against self-incrimination clause" which says that a person cannot be "compelled in any criminal case to be a witness against himself." The right has its origins in the English common law system dating back at least to the 1500's.

The Framers knew that throughout history it had been common practice to torture people to make them confess to crimes. Even if you were innocent, you might confess to a crime if you were tortured, or given the "third degree." This protection also reflects the belief that even if you were guilty, you should be treated with dignity and not be subjected to cruel and inhumane treatment by your government.

3. You think you have been arrested and are being held in jail unfairly.

Suppose you think that the police have arrested you without having a good reason for doing so, that they are keeping you in jail unfairly, or that they have denied you one of your other basic rights to due process. What can you do?

- Article I, section 9, of the Constitution guarantees you the right to have a judge hear your story and decide if you are being treated unfairly.

This part of the Constitution guarantees you the protection of the writ of habeas corpus or the "Great Writ of Liberty" as it was known by the Framers. This protection, included in the Magna Carta, has its origins in the English common law and is considered one of the most important safeguards of freedom in the British and American governmental systems. It means that if you are being held in jail, you or someone acting for you, may get an order from a court requiring the police to take you to court so you can argue before a judge that you have been unfairly arrested and should be set free. The police would have to present the evidence they

had against you to the judge to justify their actions. If the judge agreed with you, you would be set free. If not, you would be held for trial.

The purpose of the right to habeas corpus is to protect you from being held in jail for a long period of time without being tried and convicted. The Framers knew that it was a common practice for governments to arrest people and put them in jail without ever giving them a fair trial. Today, the writ has also been interpreted to protect you if you have been convicted and are being held in a state or federal prison and can argue that your conviction had been unfairly obtained. It gives you the right to have a judge review your case to see if you have been treated unfairly. It is not guaranteed during times of "rebellion or invasion."

4. You are in jail waiting for your trial.

Suppose after you have been arrested, a judge decides that there is enough evidence that you may be guilty to justify holding you for trial. What rights do you have?

- The Eighth Amendment guarantees the right to be free on reasonable bail while you wait for your trial.

It says the "excessive bail shall not be required." This idea has a long history in English common law dating back to the Magna Carta. It was a part of the legal tradition that the colonists brought from England. Bail is an amount of money left with the court to guarantee that an accused person will return to court to be tried. It is an attempt to reduce the harm done by imprisonment between arrest and trial. Such imprisonment may punish in advance someone who is eventually found innocent, may cause someone to lose a job or be unable to fulfill family duties, and may make it more difficult to prepare a defense.

The "right to bail" is limited to those who can afford to pay the amount set by the court, which is not considered "excessive" or unreasonable if it is the amount normally charged for a particular offense. If you don't have the money for bail, you may have to remain in jail until your trial. Also, if a judge decides, for example, that you would not show up for your trial or that if you were free you might endanger others, you might be refused the right to be set free on bail.

- The Sixth Amendment guarantees you the right to a speedy and public trial.

This right serves two purposes. First, it protects you from being kept in jail for a long time even though you have not been convicted. Second it protects you from being tried in secret where members of government might treat you unfairly and no one would ever know about it. The Framers knew that governments had used secret trials to unfairly convict people of crimes for which they probably would not have been convicted in a public trial by a jury of their peers.

5. You are brought to trial. What are your rights in court?

- Article III, Section 2 of the Constitution, and the Sixth amendment guarantee you the right to a trial by an impartial jury.

The Framers knew that the right to a trial by jury was one of the greatest protections from unfair treatment by the king and his judges that the people of England had developed. In England, the jury was traditionally made up of twelve

persons selected from the community at large; they were not members of the government. The purpose of a jury trial is to provide an unprejudiced group to determine the facts and to provide fair judgments about guilt or innocence. Requiring a jury trial is a way of making sure that the criminal justice system is democratic and involves citizens of the community.

- The Sixth Amendment guarantees you the right to be confronted with the witnesses against you.

Suppose a secret informer tells law-enforcement officers that you have committed a crime, but that person is not required to face you and your lawyer in court. You don't know who the person is and have no chance to challenge the accusation. The purpose of this protection is to make sure that you and your lawyer have the chance to face and question anyone who has given evidence against you which may be used to convict you.

- The Sixth Amendment guarantees you the right to compel witnesses in your favor to testify for you.

Suppose you know someone who knows something that might help you with your case, or who even might have evidence to show you are innocent, but the person won't testify for you for one reason or another. As a result, you might be convicted of a crime you didn't commit. This right says that in such situations, the government must do everything it can to bring witnesses who may be in your favor to court to testify for you.

6. You have been convicted of a crime. What rights do you now have?

- The Eighth Amendment guarantees that you may not be subjected to cruel and unusual punishment.

This protection has been interpreted to mean that the punishment shall not be "barbaric." Such punishments as branding or whipping are prohibited. The punishment shall not be "excessive." For example, you cannot be given, as happened in the past, the death sentence for stealing a loaf of bread.

7. You have been tried and found innocent. What rights do you have?

- The Fifth Amendment guarantees you the right to be free from being tried again for the same crime.

The protection against "double jeopardy" is the oldest of the procedural protections that were included in the Constitution. It has its roots in ancient Greek and Roman Law, it is in English common law, and it is found in the laws of many nations. It is intended to prevent the government from abusing its power by trying you again and again for the same crime of which you have been found innocent. To allow the government to do this would be to subject you to continued embarrassment, expense, anxiety, and insecurity, and the possibility of eventually being found guilty even though you are innocent. The protection against double jeopardy also protects you, if you have been found guilty, from being punished more than once for the same crime.

Controversies over procedural due process

Controversies over procedural due process have not been over the rightness or wrongness of the basic rights themselves but over how they should be interpreted and applied. The Supreme Court's interpretations of these rights show how it has tried, under changing and often difficult circumstances, to balance your rights as an individual against the responsibility of government to protect all of us from people who break the law and who may endanger our lives, liberty, or property. Since the protection of your individual rights is the main purpose of constitutional government, the problem of balancing these interests is one of the most difficult problems of a limited government.

While controversy remains with regard to the interpretation and extent of particular rights and how they are to be protected, all justices have agreed that fairness in the procedures by which a person is accused and tried for a crime is a cornerstone of our constitutional democracy. The guarantees of procedural fairness or justice are among the most important of your rights contained in the Constitution and Bill of Rights.

Reviewing and using the lesson

1. Make a chart listing Amendments, 4,5,6 and 8 to the Constitution, which contain guarantees of procedural due process. For each amendment state the right(s) of procedural due process that it protects.
2. What is the right to habeas corpus? Explain why it is one of the most important protections of individual freedom.
3. Are the guarantees of procedural due process outlined in this lesson in the best interests of all citizens or do they make it possible for too many criminals to be set free at the expense of law-abiding citizens? Explain your position.
4. We often hear people say: "Better that nine guilty people go free than one innocent person be convicted." Do you agree? Would you agree if the figures were "ninety-nine " and "one?"
5. Can you think of any circumstances where a defendant might not prefer a jury trial? Explain your answer.
6. Some scholars have said that procedural due process is the "keystone of liberty." Others have called it the "heart of the law." Some scholars have said that the degree of due process protections a nation provides for its citizens is an important indicator of whether the nation has a constitutional government or an autocratic or dictatorial government. Why do you suppose the Founders and these scholars would place such a high value on the protection of the rights of people accused of crimes?

TEACHING GUIDE LESSON PLAN 3

How does procedural due process protect your rights to life, liberty, and property?

LESSON OVERVIEW

This lesson deals with procedural due process. Both the federal and state governments are required by the Constitution and Bill of Rights to use fair procedures when gathering information and making decisions regarding the lives, liberty, and property of citizens. Although this lesson focuses on the criminal justice system, the requirements of procedural due process apply in some degree to all of the branches and functions of government.

While many will agree with the idea of the use of fair procedures in the abstract, the application of those procedures to specific cases is more difficult, particularly in situations when an accused person is alleged to have committed heinous crimes. Justice Felix Frankfurter once said that America provides due process guarantees:

not out of tenderness for the accused, but because we have reached a certain stage of civilization... [a civilization which], by respecting the dignity even of the least worthy citizen, raises the stature of all of us.

LESSON OBJECTIVES

At the conclusion of this lesson:

1. Students should be able to explain the relationship between the Framers' inclusion of procedural protections of the individual in the Constitution and the Bill of Rights, and their ideas about the nature of constitutional government.
2. Students should be able to describe procedural due process and identify the specific procedural rights included in the Constitution and the Bill of Rights and their historical antecedents.
3. Students should be able to explain how these rights apply to the criminal justice system.

TEACHING PROCEDURES

A. Reading and Group Activity: Understanding procedural due process

Introduce the lesson by telling the students that they will be studying procedural due process, that is, the requirement that the government use fair procedures when gathering information or making decisions. In particular, this

lesson will deal with procedural due process as it relates to criminal procedures used by law enforcement agencies and the courts. This involves the protection of the individual's rights to life, liberty, and property when suspected, accused, or convicted of a crime. The goal of procedural limitations on government is to make sure individuals' rights are not unfairly violated by an arbitrary government.

Be sure students understand that although the emphasis in this lesson is on criminal issues, fairness is also required of the government in civil cases and other matters as well.

Next, divide the class into seven groups and have each read "The importance of procedural due process" and the first paragraph of "What are your procedural rights and why are they important?" Then assign one of each of the seven sections of this selection to each group. Each group should then read the selection and be prepared to report to the class the protections of rights that it contains, the reasons for the protections, and the historical basis or reasons for the protections if such information is contained in that selection.

After the seven groups have reported, lead a discussion of the importance of procedural due process to the protection of the rights of the individual and its relationship to constitutional government and the concerns of the Founders.

B. Reading and Discussion: Controversies over due process and review of lesson

Have students read "Controversies over procedural due process." Be sure they understand the conflict it describes between the need to balance the protections of the individual against the needs of society.

C. Concluding Activity

Conclude the lesson by leading a discussion of the questions in "Reviewing and using the lesson."

OPTIONAL ACTIVITIES

For Reinforcement, Extended Learning, and Enrichment

1. Arrange to have the class visit and observe procedures at a local court hearing. If possible, have the judge discuss procedures and other issues with students.
2. Assign Gideon's Trumpet by Anthony Lewis. This is a vivid account of the facts surrounding *Gideon v. Wainwright*, 372 U.S. 335 (1963). You may be able to get a tape of the TV movie of the book, starring Henry Fonda.
3. Assign a report on *Mapp v. Ohio*, 367 U.S. 643 (1961) or other cases centering on procedural due process issues.

4. Lead a class discussion on the topic, "Why is the right of habeas corpus sometimes considered the most fundamental of all constitutional rights?"

5. Have students complete the following matching assignment to reinforce their knowledge of procedural rights and the constitutional source of these rights.

Right	Source
1. Jury trial	a. 4th amendment
2. notification of charges	b. 5th amendment
3. reasonable bail	c. 6th amendment
4. public trial	d. 8th amendment
5. assistance of counsel	
6. right to remain silent	
7. no unreasonable search	
8. confrontation of witnesses	
9. no cruel punishment	
10. one trial per offense	

Key: (1) c (2) c (3) d (4) c (5) c (6) b (7) a (8) c (9) d (10) b

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CHAPTER VII

Major Department of Defense Commemorative Programs

- Constitutional Commitment Program
- Bicentennial Defense Community Program
- Exceptional Merit Recognition Program
- Adopt-A-School

MAJOR DEPARTMENT OF DEFENSE COMMEMORATIVE PROGRAMS

Constitution Commitment Program

The Constitution Commitment Program reflects the Army's commitment to the education of soldiers, family members, and civilian employees on the meaning, origin, values and principles embodied in the United States Constitution. The purpose of the program is to heighten awareness and deepen understanding of this important document, the freedom it guarantees and the civic responsibilities necessary to its preservation and vitality. Consequently, the Constitution Commitment Program emphasizes two areas: Education and Oath Reaffirmation.

Constitution education has been initiated for all soldiers to include non-commissioned officer and officer professional development classes, officer basic and advanced courses, non-commissioned officer leadership courses, and Reserve Officer Training Corps and Reserve Component instruction. In addition, soldiers receive a pocket edition of the Constitution and constitution instruction during initial entry training. Training Support Packages on the Constitution have been prepared and distributed by the Combat Studies Institute, Command and General Staff College and by the Office of the Staff Judge Advocate, Headquarters, Training and Doctrine Command. Information on constitution instruction and copies of the Training Support Packages are available from the SABC Resource Center, Pentagon, Room 3E524, Washington, D.C. 20310-0107.

Oath Reaffirmation offers members of the Armed Forces and government employees an opportunity to rededicate themselves to support and defend the Constitution, an oath they took upon entering military or federal service. The oath clarifies one's allegiance to the Constitution rather than to a person, political party or office. It is important that the historical and contemporary significance of the oath be emphasized in military training and experience because it defines the duties and responsibilities of all service members and federal employees.

An Oath Reaffirmation Ceremony is held when basic trainees graduate from initial entry training. Additionally, oath reaffirmation opportunities are available throughout a soldier's career. Constitution Week (September 17-23 of each year), Armed Forces Day, Memorial Day, Veterans Day, Independence Day, Yorktown Day, Service and Organization birthdays, family day, and annual reserve component training are appropriate occasions to conduct oath reaffirmation ceremonies (See Chapter IX for guidance on conducting an Oath Reaffirmation Ceremony).

The Constitution Commitment Program focuses beyond the Bicentennial commemorative period, 1987-91. It looks to ongoing reaffirmation ceremonies and institutionalized instruction on the Constitution and emphasizes the Armed Forces' commitment to "provide for the common defence" in order to "secure the Blessings of Liberty to ourselves and our Posterity."

Bicentennial Defense Community Program

The Bicentennial Defense Community Program encourages Department of Defense installations, agencies, commands, ships and Guard/Reserve elements to develop commemorative programs and apply for designation as a Bicentennial Defense Community. Approved communities receive recognition from the National Commission on the Bicentennial of the United States Constitution and are authorized to display the National Commission flag and logo.

The purpose of the Bicentennial Defense Community Program is to provide committee focus, leadership, guidance and assistance in the development of activities that heighten community awareness and understanding of the Constitution. For example, in 1990 Bicentennial Defense Communities, as part of their ongoing program development, have the opportunity to plan events and educational activities to commemorate the Establishment of the Judiciary and the Uniform Code of Military Justice.

Bicentennial Defense Communities which plan and conduct ongoing activities and programs during each year of the commemorative period will receive an annual Certificate of Recognition to honor their contributions. The certificate is signed by the Secretary of the Army, Chairman of the DoD Bicentennial Executive Committee, and the Chairman of the National Commission.

By January 1, 1990, the National Commission on the Bicentennial of the United States Constitution had designated 2,632 communities across the nation as Bicentennial Communities; 189 DoD installations, organizations or vessels were designated Bicentennial Defense Communities. Bicentennial Defense Communities are encouraged to share program ideas. Installations and activities currently not participating in the Bicentennial Defense Community Program especially are encouraged to contact Bicentennial Defense Communities to discuss plans and ideas, to ask questions and share information from which to develop their own programs. The following Bicentennial Defense Communities are available to assist installations in the planning and development of bicentennial programs:

Designated DoD Bicentennial Defense Communities

1. U.S. Forces, Okinawa
2. Defense Depot Memphis, Tennessee
3. U.S. Command, Berlin
4. Defense Logistics Agency, Alexandria, Virginia
5. Defense Depot Mechanicsburg, Pennsylvania
6. United States Military Training Mission, Dhahran, Saudia Arabia
7. Defense Reutilization and Marketing Office, Cannon Air Force Base, New Mexico
8. Defense Mapping Agency, Washington, D.C
9. Military Entrance Processing Station, Phoenix, Arizona
10. Defense Courier Station, Andersen Air Force Base, Guam
11. Military Entrance Processing Station, Spokane, Washington
12. Military Traffic Management Command, Falls Church, Virginia

Designated Army Bicentennial Defense Communities

1. Fort Monroe, Virginia
2. Fort Huachuca, Arizona
3. Vint Hill Farms Station, Warrenton, Virginia
4. Fort Meade, Maryland
5. Judge Advocate General's School, Charlottesville, Virginia
6. Fort Sheridan, Illinois
7. Fort Sill, Oklahoma
8. Fort Eustis, Virginia
9. U.S. Military Academy, West Point, New York
10. Fort Belvoir, Virginia
11. Fort Benning, Georgia
12. Fort Bragg, North Carolina
13. 501st Support Group, Yongsan, South Korea
14. Fort Dix, New Jersey
15. Bayonne Military Ocean Terminal, New Jersey
16. Fort Drum, New York
17. Schwaebisch-Gmeund Military Community, West Germany
18. Fort Leavenworth, Kansas
19. Fort Gillem, Georgia
20. Fort Polk, Louisiana
21. 8th Infantry Division (Mechanized), West Germany
22. Fort Sam Houston, Texas
23. Darmstadt Military Community, West Germany
24. Fort Stewart and Hunter Army Airfield, Georgia
25. Karlsruhe Military Community, West Germany
26. Cold Region Research and Engineering Laboratory, Hanover, New Hampshire
27. U.S. Army Support Command, Hawaii
28. U.S. Army Training & Doctrine Command Combined Arms Test Activity, West Fort Hood, Texas
29. Fort Benjamin Harrison, Indiana
30. Fort Gordon, Georgia
31. Baumholder Military Community, West Germany
32. Fort Jackson, South Carolina
33. Fort Devens, Massachusetts
34. Fort Hood, Texas
35. Illinois National Guard, Springfield, Illinois
36. Livorno Military Community, Italy
37. Corps of Engineers Waterways Experimental Station, Vicksburg, Mississippi
38. Garmisch Military Community, West Germany
39. Kilbourne Kaserne, West Germany
40. Fort Carson, Colorado
41. Fort Leonard Wood, Missouri
42. Fort McClellan, Alabama
43. Vicenza Military Community, Italy
44. Ansbach Military Community, West Germany
45. Corpus Christi Depot, Texas
46. Redstone Arsenal, Alabama
47. Fort Rucker, Alabama
48. U.S. Military District of Washington, D. C.
49. Fort Lesley J. McNair, Washington, D.C.
50. Fort Myer, Virginia

51. Cameron Station, Alexandria, Virginia
52. Davison Aviation Command, Fort Belvoir, Virginia
53. Arlington Hall Station, Arlington, Virginia
54. Fort Monmouth, New Jersey
55. Arizona National Guard
56. Fort Ord, California
57. Carlisle Barracks, Pennsylvania
58. U.S. Army Aviation Systems Command, St Louis, Missouri
59. Camp Zama, Japan
60. Colorado National Guard
61. Bad Kreuznach Military Community, West Germany
62. Aberdeen Proving Ground, Maryland
63. Fort Lee, Virginia
64. Tobyhanna Army Depot, Pennsylvania
65. Torri Station, Okinawa
66. Red River Army Depot, Texarkana, Texas
67. Picatinny Arsenal, New Jersey
68. Seneca Army Depot, New York
69. Fort Campbell, Kentucky
70. Fort Bliss, Texas
71. Schweinfurt Military Community, West Germany
72. Pennsylvania National Guard
73. District of Columbia National Guard
74. 6th Infantry Division (Light), Fort Richardson, Alaska
75. Dugway Proving Ground, Utah
76. Pirmasens Military Community, West Germany
77. Missouri National Guard
78. Stuttgart Military Community, West Germany
79. Anniston Army Depot, Alabama
80. 97th U.S. Army Reserve Command, Fort Meade, Maryland
81. 1st Infantry Division (Mechanized), Fort Riley, Kansas
82. Heidelberg Military Community, West Germany
83. Bamberg Military Community, West Germany
84. Augsburg Military Community, West Germany
85. 310th Theater Army Command, USAR, Fort Belvoir, Virginia
86. Longhorn Army Ammunition Plant, Marshall, Texas
87. Wuerzburg Military Community, West Germany
88. Aschaffenburg Military Community, West Germany
89. Eastern New Mexico University ROTC Detachment, Portales, New Mexico
90. 2d Battalion, 319th Regiment, 80th Division (Training), USAR, Bristol, Virginia
91. Jackson Barracks, Louisiana National Guard, New Orleans
92. Fort Ritchie, Maryland
93. Schwaebisch Hall Military Community, West Germany
94. Camp Beauregard, Louisiana National Guard
95. Munich Military Community, West Germany
96. Texas National Guard
97. Camp Carroll, Waegwan, South Korea
98. Fort Lewis, Washington
99. Rock Island Arsenal, Illinois
100. US Army Concepts Analysis Agency, Bethesda, Maryland
101. 122d U.S. Army Reserve Command, Little Rock, Arkansas
102. 125th US Army Reserve Command, Nashville, Tennessee

103. Hanau Military Community, West Germany
104. United States Army Tank-Automotive Command, Warren, Michigan
105. Mannheim Military Community, West Germany
106. United States Army Laboratory Command, Adelphi, Maryland
107. Iowa National Guard, Camp Dodge, Johnston, Iowa
108. 157th Separate Infantry Brigade (Mechanized), Horsham, Pennsylvania
109. Holston Army Ammunition Plant, Kingsport, Tennessee
110. Storck Barracks, Illesheim, West Germany
111. 81st Army Reserve Command, East Point, Georgia

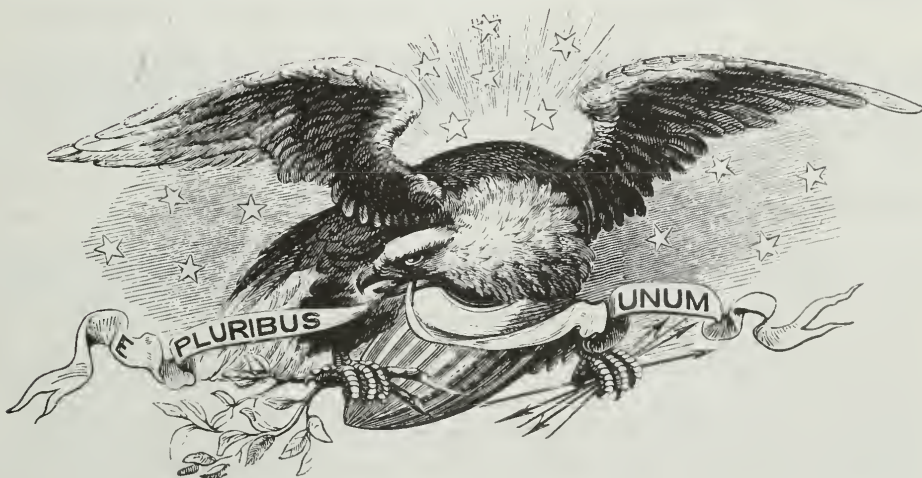
Designated Navy/Marine Corps Bicentennial Defense Communities

1. USS Taurus (PHM 3), Key West, Florida
2. Naval Training Center, Great Lakes, Illinois
3. Aviation Supply Office, Philadelphia, Pennsylvania
4. USS Edson (DD 946), Newport, Rhode Island
5. Navy & Marine Corps Reserve Center, New Haven, Connecticut
6. Navy & Marine Corps Reserve Center, Encino, California
7. Naval Station, Mayport, Florida
8. USS Wabash (AD 15), Long Beach, California
9. USS Prairie (AOR 5), Long Beach, California
10. USS John Hancock (DD 981), Mayport, Florida
11. USS Aires (PHM 5), Key West, Florida
12. U.S. Naval Facility, Brawdy, Wales, United Kingdom
13. USS Santa Barbara (AE 28), Charleston, South Carolina
14. USS Missouri (BB 63), Long Beach, California
15. Naval Communications Station, Iceland
16. Naval Construction Battalion Center, Gulfport, Mississippi
17. Naval Base, Norfolk, Virginia
18. USS Orion (AS 18), La Maddalena, Sardinia, Italy
19. Submarine Squadron 22, La Maddalena, Sardinia, Italy
20. Naval Support Office, La Maddalena, Sardinia, Italy
21. USS Constitution, Boston, Massachusetts
22. Naval Air Station, Jacksonville, Florida
23. USS Oliver Hazard Perry (FFG-7), Philadelphia, Pennsylvania
24. Naval Facility, Guam
25. Assault Craft Unit 5, Camp Pendleton, California
26. Naval Training Center, Orlando, Florida
27. USS Valley Forge (CG 50), San Diego, California
28. USS Thomas S. Gates (CG 51), Norfolk, Virginia
29. Naval Training Center, San Diego, California
30. USS Dwight D. Eisenhower (CVN 69), Norfolk, Virginia
31. USS Gunston Hall (LSD 44), New Orleans, Louisiana
32. Naval Surface Group, Long Beach, California
33. USS Estocin (FFG 15), New York, New York
34. USS Stark (FFG 31), Mayport, Florida
35. Naval Technical Training Center, Corry Station, Pensacola, Florida
36. Naval Air Station, Pensacola, Florida
37. USS Mahan (DDG 42), Charleston, South Carolina
38. USS Robert E. Peary (FF 1073), Pearl Harbor, Hawaii
39. USS Trippe (FF 1075), Newport, Rhode Island
40. Assault Craft Unit Two, Naval Amphibious Base, Norfolk, Virginia
41. USS Samuel Eliot Morison (FFG 13), Charleston, South Carolina
42. Washington Navy Yard, Naval District Washington, D.C.

43. USS Affray (MSO 511), Newport, Rhode Island
44. Marine Corp Air Stations El Toro and Tustin, California
45. Naval Ocean Processing Facility, Dam Neck, Virginia
46. Naval Submarine Base, Bangor, Washington
47. Naval Security Group Activity, Terceira Island, Azores
48. USS Philippine Sea (CG 58), Mayport, Florida
49. U.S. Naval Communication Station, United Kingdom
50. Naval Plant Representative Office, St. Louis, Missouri
51. USS Exploit (MSO-440), Newport , Rhode Island
52. U.S. Navy Fleet Activities, Chinhae, Republic of Korea
53. Naval Reserve Center, Naval Air Station, Corpus Christi, Texas

Designated Air Force Bicentennial Defense Communities

1. Chanute Air Force Base, Champaign, Illinois
2. Lowry Air Force Base, Denver, Colorado
3. Williams Air Force Base, Phoenix, Arizona
4. Luke Air Force Base, Phoenix, Arizona
5. Davis-Monthan Air Force Base, Tucson, Arizona
6. Dover Air Force Base, Dover, Delaware
7. 927th TAG (AFRES) Selfridge Air National Guard Base,
Mt Clemens, Michigan
8. Vandenberg Air Force Base, Lompoc, California
9. Norton Air Force Base, San Bernardino, California
10. 103d Tactical Fighter Group, Bradley Air National Guard Base, East Granby,
Connecticut
11. 507th Tactical Fighter Group, Tinker Air Force Base, Oklahoma City,
Oklahoma
12. 2002d Command Squadron, Altus Air Force Base, Altus, Oklahoma
13. 22d Air Refueling Wing, March Air Force Base, Riverside, California



EXCEPTIONAL MERIT RECOGNITION PROGRAM

The Commission on the Bicentennial of the United States Constitution acknowledges outstanding commemorative activities through its official recognition of "Programs of Exceptional Merit." A total of 105 DoD programs have received this honor since 1986, including print, audio and video support materials, lectures, exhibits, and special events honoring the Constitution Bicentennial. Items indicated by an asterisk (*) are available by writing to: HQDA, SABC, Attn: SABC Resource Center, Pentagon, Room 3E524, Washington, D.C. 20310-0107. Telephone: AUTOVON 227-5075/ 5082/ 4673; or COMMERCIAL (202) 697-5075/ 5082/ 4673.

Support Materials

* Soldier-Statesmen Brochures (Center of Military History)

The Army Center of Military History produced a series of 23 pamphlets on each of the Soldier-Statesmen Signers of the Constitution. The eight-page monographs discuss the lives of these men who served either in the Continental Army or Militia in terms of their contributions as patriots, soldiers and statesmen. More than 50,000 sets have been distributed to military and civilian communities and organizations. Brochures will be available through 1991.

* "The Ratification of the Constitution" (Center of Military History)

This twenty page, color brochure provides an historical narrative on the Constitutional Convention and its delegates, the Federalist - Anti-Federalist debates, the state ratification conventions and the significance of the Constitution as the "Law of the Land".

* The "Soldier-Statesmen of the Constitution: The Presidents" (Center of Military History)

The Presidents Brochure, a twenty page, color brochure produced by the United States Army Center of Military History, highlights thirty of the forty-one Presidents who had military service and examines the influence of these experiences upon their decision-making process as Commander in Chief.

* Resource Guide (Secretary of the Army Public Affairs)

A Bicentennial Resource Guide, developed by the Command Information Division, Office of the Chief of Public Affairs, was published to help commands plan observances to commemorate the Bicentennial of the Constitution. It contains condensed versions of the 23 Soldier-Statesmen Brochures, speeches, historical background, music, clip art and a chronology of historical and significant events from 1783-1803. More than 120,000 copies have been distributed to educational institutions, state commissions and military installations. Yearly supplements have been produced and are planned through 1991. They also are available from the SABC Resource Center.

*** Resource Guide - Supplement I (Secretary of the Army's Bicentennial Committee)**

The 1988 guide is a concise handbook covering historic events leading to the ratification of the Constitution and includes Ratification articles and lessons and a summary of the *The Federalist* papers. Also included is a chapter of Ratification quotations. Additionally, the guide provides a suggested list of activities to increase awareness about the Constitution and a list of available resource materials. Installations and activities participating in the Bicentennial Defense Community program and Department of Defense programs recognized for exceptional merit are included.

*** Resource Guide - Supplement II (Secretary of the Army's Bicentennial Committee)**

The 1989 guide is a concise handbook covering historic events leading to the inauguration of the first President, the convening of the first session of Congress and the establishment of national defense. This supplement highlights the service of the 30 soldier-statesman presidents and contains selected quotations. The guide provides a list of suggested activities to increase Constitutional awareness and a list of available resource materials. Bicentennial Defense Communities and Programs of Exceptional Merit are highlighted in chapter six.

*** Constitution Bicentennial Coloring Book (Second United States Army and United States Army Engineer Museum)**

The Second United States Army and Army Engineer Museum coloring books supported the 1987 Army theme, "The Constitution." The Second Army book also supports a previous theme, "The Family." Second Army distributed 75,000 copies of the coloring book. The Army Engineer Museum distributed 6,000 copies to local schools and museum visitors. The coloring books helped educate children on the Constitution and on the Army's long-standing history of dedication to the principles of the Constitution. A sample copy can be obtained for local reproduction from the Secretary of the Army's Bicentennial Committee Resource Center.

*** "Quotations on the Constitution" (Pentagon Library)**

The Pentagon Library's booklet, "Quotations on the Constitution," is a resource for military and civilian speakers and writers. To aid researchers who need references on the Constitution, the 107 quotations are organized chronologically under the heading of the article of the Constitution with which they deal; general quotations appear in a section on the Preamble. A list of sources for the quotations and an index of persons quoted are also included. More than 50,000 copies have been distributed to government agencies, patriotic and veteran organizations, and schools. Booklets are available at the Pentagon Library and through the Publications Center as well as the SABC Resource Center.

Soldier-Statesmen of the Constitution (Center of Military History)

The Office of the Chief of Military History, Department of the Army, produced the volume, Soldier-Statesmen of the Constitution, to explore the contributions of Revolutionary War veterans to the founding of the American republic. In addition to biographies of the Soldier-Statesmen, the volume contains material on the Army and the founding of the Republic, biographies on the other signers, selected pertinent

historical documents and several appendices, including statistical data on the military service of key Americans of the period. The hardback volume (Stock No. 008-029-00153-5) may be purchased from Government Printing Offices for \$25.00 and a softback volume (Stock No. 008-029-00159-4) retails for \$22.00.

"The Constitution" (Office of Military Chaplains)

The Fall '87 issue of the Military Chaplains' Review, "The Constitution," celebrated the Constitution of the United States, the period of history that gave birth to the founding documents, the nation, the chaplaincy and the rewards and challenges of this legacy.

*** "Your Oath" (U.S. Total Army Personnel Command)**

"Your Oath" is a brochure designed to inform all new soldiers and civilian about the oath they take to support and defend the Constitution. The brochure links the oath of office and the oath of enlistment to Army values of courage, commitment, candor and competence. Vignettes illustrate the challenges encountered in support and defense of the Constitution.

*** Soldier-Statesmen Videotapes (Command Information Unit, Secretary of the Army Public Affairs)**

The Constitution Signers "We the People" videotape features 40 one-minute vignettes, one for each of the signers of the United States Constitution. In addition to internal distribution, the National Association of Broadcasters distributed the spots to more than 1,200 commercial television stations nationwide. Loaner copies are available for local duplication from the SABC Resource Center.

*** "Department of Defense Commemoration of the Bicentennial of the United States Constitution -- The Year 1987 in Review" Videotape (Secretary of the Army's Bicentennial Committee)**

The videotape, "Department of Defense Commemoration of the Bicentennial of the United States Constitution -- The Year 1987 in Review," chronicles the diversity of activities and special events commemorating the Constitution Bicentennial. The visual report documents DoD participation from September 1986 through September 1987 and is available through the SABC Resource Center for local duplication.

*** Bicentennial Logo (Secretary of the Army's Bicentennial Committee)**

The Department of Defense Bicentennial logo was designed to reflect the DoD mission stated in the Preamble, "To provide for the common defence." The logo consists of a triquetra -- symbolizing the executive, legislative and judicial branches -- resting upon a Pentagon which symbolizes the DoD support to the government and the American people. The Constitution Bicentennial logo is affixed to DoD educational and commemorative products.

*** Oath Reaffirmation Certificates (Secretary of the Army's Bicentennial Committee)**

Oath Reaffirmation Certificates (for both officer/civilian and enlisted) are available on camera-ready slicks and can be tailored to reflect unit affiliation. These certificates enhance Oath Reaffirmation Ceremonies by providing a tangible reminder

to soldiers of the significance of the Constitution in their lives. Certificates measure 8 1/2" by 11" and can be reproduced locally on parchment stock by Xerox technique at nominal expense.

*** Certificates of Recognition (Secretary of the Army's Bicentennial Committee)**

Certificates of Recognition are available to honor those who have meritoriously supported the DoD Commemoration of the Bicentennial of the Constitution. Certificates have been awarded, for example, to media representatives, student essay writers, teachers and members of the Armed Forces and civilians who have devoted their time, energy and talents to commemorative projects and activities. Each certificate measures 8" by 10" and is printed in four colors on light buff-colored cardstock. The certificates will be available through 1991.

*** 'Provide for the common defence' Program Cover (Secretary of the Army's Bicentennial Committee)**

The pre-printed, color program cover incorporating the DoD Bicentennial "Eagle" poster graphic offers installations and agencies an opportunity to highlight their upcoming ceremonies of the Bicentennial of the Constitution and special events. Covers will be available through 1991.

*** Foreign Language Translations of the U.S. Constitution (Secretary of the Army's Bicentennial Committee)**

Arabic, Chinese, French, German, Korean, Portuguese and Spanish translations of the U.S. Constitution are available for military installations and educational institutions. These translations are especially useful to those working towards their U.S. citizenship and to foreign language students.

Lectures

Constitution Lecture Series (Center of Military History)

The Center of Military History conducted a series of six lectures at The National Defense University, Washington, D. C. during 1987. Noted historians and scholars spoke on the history of the Constitutional era. These six lectures, supplemented with additional articles, will be distributed to major depository libraries and major army commands, battalion level. Plans are to offer copies from the Government Printing Office beginning Spring, 1990, for approximately \$10.00 per copy.

"The United States Army and the Constitution" (Military History Institute)

The Military History Institute at Carlisle Barracks, Pa., developed a series of nine lectures focused on the Department of Defense and the history of our Republic. The series demonstrated the Department of Defense's steadfast commitment to and support of constitutional government. Distribution was made in Winter 1988 to worldwide Army libraries.

"Congress, the Presidency, the Judiciary, and National Security: A View from the Bicentennial of the Constitution" (National Defense University)

This National Defense University symposium, held November 13-14, 1987, attracted more than 400 participants from various agencies including the National Defense University, Departments of Defense and State, as well as researchers, practitioners, individuals from academia, the private sector, and foreign governments. Objectives of the symposium were to improve quality of national debate on national security issues and enhance a broader understanding of those issues and to enrich the academic experience of University members through participation in symposia.

War Department Symposium (Command & General Staff College, Fort Leavenworth, Kansas)

On October 30, 1989, the United States Army Combined Arms Center and Fort Leavenworth conducted a symposium to observe the Bicentennial of the Establishment of the Department of the War (Defense). This symposium, sponsored by the Combat Studies Institute, gathered distinguished speakers from the three branches of the Federal Government, and a noted scholar of the early Federal period, to reflect upon the United States Constitution. The concept of civilian control of the military served as the central theme. The featured speakers were: the Honorable Howard Callaway, former Secretary of the Army; the Honorable Jim Slattery, U. S. Representative from the Second Congressional District of Kansas; the Honorable Eugene Sullivan, Judge, U. S. Court of Military Appeals; and Professor Don Higginbotham, University of North Carolina. The symposium was hosted by Lieutenant General Leonard P. Wishart III, Commanding General, United States Army Combined Arms Center and Fort Leavenworth.

Exhibits

*** "Defending the Constitution" (Secretary of the Army Public Affairs)**

The United States Army Recruiting Command's commemorative touring exhibit, "Defending the Constitution," illustrates the role of the military in support of the Constitution and shows the citizen-soldier influence on our early history and the formation of the government. The exhibit has been displayed in state capitals and at Bicentennial activities across the United States. The exhibit will tour the country through 1991. Arrangements to schedule the exhibit may be made by contacting the SABC Resource Center.

National Infantry Museum Exhibit

The National Infantry Museum, Fort Benning, Ga., created an exhibit to recognize the importance of the 200th anniversary of the signing of our Constitution. The exhibit features 18th century-style furnishings, flags, trophies, portraits of three signers of the Constitution, and 18th and early 19th century documents signed by three Soldier-Statesmen Signers of the Constitution. The exhibit will be on display throughout the commemorative period of the Bicentennial. For information telephone (404) 545-2950, Autovon 784-2950.

Constitution Quest: Why a Navy? (United States Navy)

The Navy Museum at the Washington Navy Yard, in cooperation with the National Portrait Gallery of the Smithsonian Institution, developed a Bicentennial program entitled "Constitution Quest: Why a Navy?" The multi-part program is designed to help secondary history and civics students understand and appreciate the complexity of writing the basic document that governs us today through role-playing and museum visits. For more information call Ms. Silverstein at (202) 433-4882.

Fort Leonard Wood Museum Exhibit

The Fort Leonard Wood Museum created an exhibition entitled, "We the People." The exhibit consists of thirty framed documents and illustrations focusing on the creation and the role of the military under the United States Constitution and is displayed at special commemorative events throughout the Bicentennial. In addition to the Museum exhibit, two traveling exhibits toured the south central Missouri area during 1987. For information telephone (314) 368-4249, Autovon 581-4249.

Bicentennial Window (Army War College)

The Army War College Corresponding Studies Course Class of 1987 presented a stained glass window to the Army War College in commemoration of the Constitution Bicentennial. The stained glass window depicts the Preamble to the Constitution, and includes service seals representing class membership.

"Soldier-Signers of the Constitution" Exhibit (Secretary of the Army Administrative Assistant)

This permanent Pentagon exhibit, "Soldier-Signers of the Constitution," features portraits of the 23 Soldier-Statesmen Signers of the Constitution. Included in the exhibit are a framed copy of the Constitution, a description of the Department of Defense Constitution Bicentennial logo, biographical information on each of the Soldier-Statesmen Signers, and flags of the thirteen original colonies. The exhibit is located on the Pentagon's third floor, E Ring, 7th Corridor.

Constitution Bicentennial Exhibit (Army Materiel Command)

The Army Materiel Command (AMC) Constitution Bicentennial exhibit was produced in three versions. One version accompanied the AMC Band on its 55-city concert tour, a second touring version was provided to major AMC subordinate commands where it was displayed in lobbies and loaned to local public schools. The third touring exhibit consists of modules featuring 40 one minute video vignettes on each signer of the Constitution and a mural depicting the signing of the Constitution by Howard Chandler Christy. Each exhibit highlights the role of the military in founding the national government. In addition, the public service and leadership of our founding fathers and the mission of AMC are discussed. The exhibits are available for loan. For information telephone AUTOVON 298-3078/4948 or Commercial (301) 298-3078/4948.

"Providing for the Common Defense" Exhibit (Secretary of the Army Administrative Assistant)

A Pentagon exhibit entitled, "Providing for the Common Defense," highlighted the responsibility stated in the Preamble -- "provide for the common defence." The

exhibit displayed artifacts pertaining to Articles I and II of the Constitution. In addition, two sub-themes, "to provide and maintain a Navy" and "to raise and support Armies, were emphasized." All artifacts and historical items were reflective of the Army and Navy of the late 1700s. The exhibit was on display in the Pentagon, June 1987 to June 1988. Information regarding its construction and design may be obtained by calling AUTOVON 227-4673 or Commercial (202) 697-4673.

Army Transportation Museum Exhibit

The United States Army Transportation Museum Exhibit highlights the development and signing of the United States Constitution. Eleven signers of the Constitution, who were also soldiers in the Continental Army, are featured in a three-panel display. Portraits of these Soldier-Statesmen are displayed with text describing their contributions. The exhibit is displayed at special commemorative events throughout the Bicentennial period. For information telephone (804) 878-1109, Autovon 927-1109.

"Framers of the Constitution" Float (Picatinny Arsenal)

Picatinny Arsenal, Dover, N.J., makes available to the public their parade float which has participated in six parades since May 1989. The 1989 exhibit focused on the three branches of the Federal Government: Executive, Legislative, and the Judicial, as well as, the establishment of the War Department to serve in the common defense of the nation. The float was designed and constructed by the Technical Exhibits Branch, Information Management Directorate, U.S. Army Armaments Research, Development and Engineering Center at the Arsenal. Call the Public Affairs Office at (201) 724-6365/4 for more information.

Programs and Activities

Bicentennial Bullets (Secretary of the Army Public Affairs)

During 1987, the Electronic Media Branch, Command Information Division, Office of Public Affairs, produced daily accounts of events related to the development and ratification of the Constitution in the form of radio announcements. The announcements, produced in 30, 60, and 90-second formats, were broadcast over the Army Information Radio Service. Other Bicentennial events were published in the Army News Service (ARNEWS) and other Army-wide Command Information publications.

Army Commissary Program

Army commissaries joined the commemoration of the Bicentennial of the United States Constitution with the development of a major merchandising program in 1987. Emphasizing the theme "Proud to Serve Freedom's Family," store displays featured theme banners, posters and flags to accompany the American Constitution Bicentennial Celebration Sale. During June 1988, commissaries worldwide joined the major food manufacturers in a promotional salute to the nation commemorating the Ratification of the Constitution. Special store-wide decor kits with a red, white, and blue motif reinforced June's historical significance and the Agency's yearly theme of "Proud to Serve Freedom's Family." In 1989, commissaries focused on the establishment of the government under the Constitution.

*** Bicentennial Defense Community Program (Secretary of the Army's Bicentennial Committee)**

The Bicentennial Defense Community Program encourages Department of Defense installations, agencies, commands, ships and Guard/Reserve units to develop commemorative programs and apply for designation as a Bicentennial Defense Community. Approved communities receive recognition from the National Commission on the Bicentennial of the United States Constitution and are authorized to display the National Commission flag and logo. The purpose of the Bicentennial Defense Community Program is to provide committee focus, leadership, guidance and assistance in the development of activities that heighten community awareness and understanding of the Constitution. Bicentennial Defense Communities which plan and conduct ongoing activities and programs during each year of the commemorative period will receive an annual Certificate of Recognition to honor their contributions. The certificate is signed by the Secretary of the Army, Chairman of the DoD Bicentennial Executive Committee, and the Chairman of the National Commission. By 1 January 1990, the National Commission on the Bicentennial of the United States Constitution had designated 2,632 communities across the nation as Bicentennial Communities, 189 DoD installations, organizations or vessels were designated Bicentennial Defense Communities. Information on the program and applications are available from the SABC Resource Center.

United States Army Reserve Essay Contest

During 1987, the United States Army Reserve sponsored a National Essay Contest. The competition focused on the contributions of our Founding Fathers and drew 6, 850 entries from more than 400 high schools across the nation. Essayists were asked to explain, as a delegate to the Constitutional Convention might, how they would see the Constitution as the culmination of their struggle, how their experience as a citizen-soldier developed a conviction of the necessity for a strong national defense, and how this concept was ultimately embodied in the Constitution. The contest winner at each school received a Certificate of Achievement from the Chief of Army Reserve. The first-place award, \$1,000, was presented in Washington, D.C. by the Chief, Army Reserve.

*** Fun Run Package (Secretary of the Army's Bicentennial Committee)**

A promotion package was designed to encourage a Bicentennial theme for military-sponsored races and walks. The packet includes color samples of a race logo, certificate of completion, participant's number, start and finish banners, and a large poster to be used at award presentations, start, and/or finish areas. The Race Package is available upon request from the SABC Resource Center.

"Leaders for Tomorrow" Youth Activity Program (Army Community and Family Support Center)

Army, Navy, Air Force, and Marine Corps Youth Activities Programs worldwide joined in the commemoration of the Bicentennial of the United States Constitution. "Leaders for Tomorrow" was the 1987 theme for emphasizing youth rights and responsibilities. Youth Activity Programs worldwide sponsored many activities, including "Celebration of Citizenship" and "Plant a Living Legacy." Youth Councils were organized which emphasized individual rights and responsibilities to one's self, family and community and the involvement of youth in a free society.

Leave and Earnings Statements Bicentennial Messages (Secretary of the Army's Bicentennial Committee)

Bicentennial of the United States Constitution messages were included on May through September 1987 Leave and Earnings Statement (LES) of Active Army and Reserve Component service members, retirees and civilian employees. Leave and Earnings Statement messages were selected as one way to intensify awareness of the Constitution Bicentennial celebration and again were included on August and September, 1988 Active Army LES statements.

Constitution Signers Commemorative Wreath Ceremonies (Secretary of the Army's Bicentennial Committee and Chief, National Guard Bureau)

As part of the observance commemorating the Bicentennial of the signing of the United States Constitution, the Department of the Army requested the Adjutants General of each state, to honor each signer of the Constitution interred in their states with a wreath ceremony on September 17, the day the document was signed in 1787. The ceremonies honored all 40 signers. State and local dignitaries, as well as some descendants, attended the ceremonies. Annual ceremonies to honor the signers will be conducted as the result of a Secretary of the Army Memorandum, 25 May 1989.

Bicentennial of the Constitution Oral Interpretation Program (Missouri National Guard)

The Missouri National Guard developed an ongoing program for the reading of the Constitution aloud by members of subordinate units located in 62 Missouri cities. Each unit uses a program booklet which provides guidance on conducting the reading of the Constitution during unit formations throughout the commemorative Bicentennial period. Approximately 12,000 soldiers, airmen and their families and community members were reached. For further information telephone (314) 751-9846.

Anniston Army Depot Constitution Bicentennial Outreach Program

During 1988, Anniston Army Depot adopted the Bynum Elementary School and provided resource materials to four other schools in the Anniston, Alabama area. The Depot framed and hung ten sets of the Documents of Freedom around the installation, and highlighted the Constitution during Armed Forces Day. Thirteen pear trees were planted in recognition of the thirteen colonies, the Bicentennial exhibit "Defending the Constitution" was displayed and a commemoration ceremony was held in cooperation with Fort McClellan, Ala.

National Guard Bureau Bicentennial Program

The National Guard Bureau Bicentennial Program consists of an extensive command information effort to educate 566,000 Army and Air National Guard personnel on the history and significance of the Constitution. Topics include the militia's role in winning the nation's independence, the role of militiamen in drafting the Constitution, and the Guard's role in defending the Constitution. The program began in 1986 and will continue through 1991. Specific projects in support of this program include: the Presidential poster series, the "Constitution and the National Guard" poster, and participation in hundreds of Bicentennial ceremonies.

Constitution Oath Reaffirmation Project (Secretary of the Army's Bicentennial Committee)

The Department of Defense Constitution Oath Reaffirmation Project is part of the DoD Constitutional Commitment Program. Under this program, individuals and military organizations are encouraged to periodically reaffirm their oaths to support and defend the United States Constitution. This initiative serves to educate servicemembers about the Constitution as well as strengthen their resolve to preserve it. Oath reaffirmations are often the centerpiece of military Bicentennial ceremonies and have been conducted worldwide by countless servicemembers and civilians.

Oath Reaffirmation Ceremonies (Assistant Secretary of the Navy, Financial Management)

More than 300 military and civilian employees of the Assistant Secretary of the Navy's Financial Management Office participated in special ceremonies on September 21-22, 1988, commemorating the Bicentennial of the Constitution. Participants signed a 16" x 36" parchment certificate reaffirming their commitment to support and defend the Constitution. The original certificate hangs in the Assistant Secretary's office and eight metal copies hang in key organizational offices. Parchment 8" x 10" copies were given to all who participated in the event.

Constitution Wall (U.S. Army Intelligence Center and School)

The Constitution Wall located in the Intelligence Center at Fort Huachuca, Ariz., includes framed reproductions of the Constitution, Declaration of Independence, Bill of Rights, and Gettysburg Address, all of the Soldier-Statesmen brochures and paintings depicting both a continental and a present-day soldier. The Constitution Wall is viewed annually by 6,000 people.

Week of the Eagles 1988 (101st Airborne Division and Fort Campbell)

"Week of the Eagles 1988," a biennial event held June 3-10, chose the Bicentennial of the Constitution and patriotism as its theme for 1988. Military events, individual and team competitions, and family activities to include a 10 km Bicentennial Run, organization picnic and military review were highlighted activities. More than 80,000 people participated and gained an appreciation for the Constitution through displays, poster and essay contests.

104th Division's (Training) "The Wolf Print" Constitution Issue

The 104th Division (Training) published and distributed 3,300 copies of its 6-page newspaper celebrating 200 years of the U.S. Constitution throughout Washington and Oregon. The issue included articles, quizzes, and quotations regarding the significance of the Constitution..

Department of Defense Attache' Outreach

Since 1987, Bicentennial of the Constitution resource materials have been distributed through the Department of Defense attaches to their hosts in the hope that the materials will help explain our Constitution and form of government. To date, materials have been provided to 76 representatives in 50 countries, including Hungary, Poland, Czechoslovakia, Congo, Saudi Arabia, Syria, Israel, Ghana, Bangladesh, and most of Central and South America.

The American Flag and the 927th Tactical Airlift Group

The 927th Tactical Airlift Group, Selfridge Air National Guard Base, Mt. Clemens, Mich., honored the Constitution throughout 1989 at their Employer Support of the Guard and Reserve tour and Bosses' Day, in speeches by their members, at Family Day, during media events and at base graduation ceremonies.

Naval District of Washington--"Your Constitution"

Weekly since September 11, 1987 "Sea Services Weekly" has published Constitution-related articles. Subjects have included "Your Right to Vote", short biographies on the signers of the Constitution, Constitution-related crossword puzzles, Bells Across America, the re-enactment of George Washington's journey to the first inauguration, reaffirmation ceremonies, and how to become a Bicentennial Defense Community.

Special Events

Annapolis Convention Ceremony (Forces Command)

The Army, in conjunction with the State of Maryland, hosted an Armed Forces Retreat Review at Fort Meade on September 14, 1986, to commemorate the Bicentennial of the Annapolis Convention. The Federal Commission used the occasion to initiate the national celebration for the Bicentennial of the United States Constitution. Notable participants included Chief Justice Warren E. Burger, Senator Strom Thurmond, Secretary of the Army John O. Marsh, Jr., and members of the Bicentennial Commission. Exhibits, demonstrations, a band concert, a Living Legacy ceremony and an Armed Forces review were conducted during the day's festivities.

USS CONSTITUTION Turnaround Cruise (United States Navy)

On July 4, 1987, the USS Constitution was tugged into Boston harbor from its berth at Charlestown Navy Yard and turned around. The annual turnaround cruise permits the ship to weather evenly. The 1987 cruise was dedicated to the Constitution whose name she bears and which she began defending 191 years ago. During the cruise, the ship fired a 21-gun salute to the nation. Fort Independence returned the salute.

"Constitution Weekend" (United States Navy)

The USS CONSTITUTION, in cooperation with local and state agencies, sponsored "Constitution Weekend" in Boston from September 17-21, 1987. Ships from Canada, France, Italy and the United Kingdom exchanged salutes with Fort Independence as they arrived. Ships were open to the public. The city of Boston hosted an evening dance party at City Hall Plaza for United States Navy and Allied sailors and other service members. Following a Bicentennial cruise, the ships anchored in the central harbor for an evening fireworks display climaxed by a double broadside salute fired from the USS CONSTITUTION.

"Spirit of America" (Military District of Washington)

The 1987, 1988 and 1989 "Spirit of America" military pageant celebrated the Bicentennial of the United States Constitution. Approximately 235,000 persons

viewed the productions held in Washington, D. C. and Philadelphia, Pa. An annual production of the United States Army Military District of Washington, the "Spirit of America" used historical tableaux, period costumes, music and colorful lighting to portray the drafting, signing and Ratification of the Constitution, and to present an overview of the Army's heritage. The 1989 production highlighted the inauguration of George Washington, our first President and Commander in Chief. Reenactors are soldiers of the Third United States Infantry (The Old Guard) and the United States Army Band (Pershing's Own).

Constitution Square (United States Army Armament, Munitions and Chemical Command)

On September 17, 1987, the U.S. Army Armament, Munitions and Chemical Command, Rock Island Arsenal, Ill., held a retreat ceremony which rededicated the parade field as Constitution Square. The ceremony featured the 88th U.S. Army Reserve Command's Continental color guard who wore uniforms similar to those worn 200 years ago. Displays were matched with information on the 23 Soldier-Statesmen Signers of the Constitution. At the conclusion of the ceremony students released red, white and blue balloons. Other activities included four Constitution Bicentennial concerts featuring the Army Materiel Command band and a special edition of the post newspaper.

"Defenders of the Constitution: Past, Present, Future" (Tank-Automotive Command)

"Defenders of the Constitution: Past, Present, Future" was the theme of the U.S. Army Tank-Automotive Command's 1987 Constitution Bicentennial celebration. Activities included the handoff of a Constitution-dedicated M1A1 Abrams tank to the 4th Bn, 67th Armor, 3d Armored Division, as well as displays, speeches and music. Other events included the presentation of pocket Constitutions, Soldier-Statesmen Brochures and other educational materials to area schools. In addition, speeches and newspaper articles regarding the Constitution were published.

Bicentennial Celebration (Army Logistics Management College)

During 1987, the U.S. Army Logistics Management College, Fort Lee, Va., conducted a series of commemorative events dedicated to the Constitution Bicentennial. Officers and enlisted soldiers reaffirmed their oaths of service and enlistment during special ceremonies. A month-long exhibit focused on the Constitution. Constitution Day activities included a Constitution Relay and a Living Legacy tree planting ceremony, and participation in Bells Across America.

Reaffirmation Day (Army Communications Electronics Command)

The Constitution Bicentennial at U.S. Army Communications-Electronics Command, Fort Monmouth, N.J. was celebrated on many fronts. The year-long series of events, including band concerts, speeches, and participation in community events, culminated with a Constitution Day ceremony. Constitution Day activities included an open house, a recognition ceremony, an oath reaffirmation ceremony, and participation in Bells Across America on September 17, 1987. Four New Jersey signers of the Constitution were honored during a ceremony dedicating "Constitution Plaza, a park located in front of the United States Army Communications-Electronics Command, Research, Development and Engineering Center."

XVIII Airborne Corps, Fort Bragg Naturalization Ceremony

On Citizenship Day 1987 seventy-five immigrant petitioners swore to support and defend the U.S. Constitution in a naturalization ceremony at Fort Bragg, North Carolina. Command Sergeant Major Tadeusz Gaweda, Polish born, led the group in the Pledge of Allegiance and Brigadier General Sidney Schuchnow, born in the Soviet Union, delivered the principal address. On the same day members of the 82d Airborne Division reaffirmed their enlisted and officer oaths at Reaffirmation Ceremonies.

Twilight Tattoo (United States Army Military District of Washington)

The military pageant, "Twilight Tattoo, produced by the United States Military District of Washington is held annually on the White House Ellipse in Washington, D.C. Over 370 soldiers perform in this tribute to the vitality of this nation and the sacrifices of the men and women who helped create America and have continued to defend it under the Constitution. The 1988 production honored the Ratification of the Constitution and Members of Congress. Alumni from the largest land grant colleges in the original 13 states also were honored at the 1988 premiere. Annual productions will focus on each of the Bicentennial themes during the commemorative period. Thousands of spectators view the pageant during July-August each year.

The Morgan-Stephenson Ceremony (Secretary of the Army's Bicentennial Committee)

The Department of the Army honored the first riflemen and their leaders, Captains Daniel Morgan and Hugh Stephenson, to answer the call to arms by the Continental Congress, June 14, 1775. The response to this Congressional resolution by these early patriots was a milestone on the road to the establishment of our Republic under the Constitution. A Total Army Honor Guard in modern and period uniform was provided by the United States Army Military District of Washington, the West Virginia National Guard and the 99th U.S. Army Reserve Command. The ceremony included the dedication of the Morgan-Stephenson Oak and was hosted by the Secretary of the Army John O. Marsh, Jr. on September 17, 1988 at Morgan's Grove Park, Shepherdstown, W.Va.

Department of Defense Constitution Week Ceremony (Secretary of the Army's Bicentennial Committee)

The Department of Defense honored "Constitution Week 1988" with a special ceremony coordinated by the United States Army Military District of Washington. Held at Mount Vernon, home of the first President and Commander in Chief, the ceremony focused on the Bicentennial of Ratification and looked forward to the Bicentennial of the Establishment of the Federal Government and National Defense. The event included an Armed Forces Honor Guard and the dedication of a living legacy, the Federal Oak. The ceremony was hosted by the Honorable William H. Taft, IV, Deputy Secretary of Defense. Honored guests included the Honorable Warren E. Burger, Chairman, Commission on the Bicentennial of the United States Constitution; the Honorable Michael P. W. Stone, Undersecretary of the Army; and Mrs. Robert Channing Seamans, Regent of the Mount Vernon Ladies Association of the Union.

General William Darke Ceremony (Secretary of the Army's Bicentennial Committee)

The Department of the Army honored the selfless service and special sacrifice of Brigadier General William Darke (1736-1801), Soldier-Statesman of West Virginia. The ceremony included the dedication of a living legacy, the General William Darke Oak, and presentation of a POW medal to a former prisoner of war, Reverend Charles J. Cathcart. An Honor Guard was provided by the United States Army Military District of Washington, the West Virginia National Guard and the 99th U.S. Army Reserve Command. The event was hosted by Secretary of the Army, John O. Marsh, Jr. and included special guest, Mrs. Ann Mills Griffiths, Executive Director, National League of Families of American Prisoners and Missing in Southeast Asia. The General William Darke Oak was dedicated near General Darke's homesite on October 8, 1988 in Duffields, W.Va.

Law Day on the Eagle, A Celebration of the U.S. Constitution (United States Coast Guard)

On Law Day, May 1, 1987, the U.S. Coast Guard honored the Constitution aboard America's tall ship, Eagle, with a ceremony and reception. After the ceremony, facsimiles of the Constitution were transported on the Eagle with planned presentations in American Samoa, Australia, and the United States.

Tercentennial of the English Bill of Rights Ceremony (Secretary of the Army's Bicentennial Committee)

On December 20, 1988, the Secretary of the Army joined with British and U.S. officials to honor the English Bill of Rights, the precursor to the U.S. Bill of Rights. The ceremony, backdropped by an Army Honor Guard in Ceremonial Hall, Fort Myer, Va., included remarks by His Excellency, Sir Antony Acland, British Ambassador to the United States, the Honorable Warren E. Burger, Chairman, Commission on the Bicentennial of the United States Constitution, and John O. Marsh, Jr., Secretary of the Army.

American Presidential Pageant (United States Army Military District of Washington)

During January 18-20, 1989, more than 11,450 people attended the pageant celebrating the bicentennial of the first presidential inaugural held in Washington, D.C. at the D.A.R. Constitution Hall. The production included many tableaux highlighting inaugural addresses and many of our presidents and statesmen.

Bicentennial of the French Revolution Ceremony (Secretary of the Army's Bicentennial Committee)

On May 15, 1989, the Department of Defense conducted a ceremony to honor the Bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen at Ceremonial Hall, Fort Myer, Va. The ceremony included remarks by His Excellency, Emmanuel de Margerie, French Ambassador to the U.S., the Honorable Warren E. Burger, Chairman, Commission on the Bicentennial of the U.S. Constitution, and the Honorable Charles McC. Mathias, Jr., Chairman, American Committee on the French Revolution, and John O. Marsh, Jr., Secretary of the Army.

Department of War (Defense) Bicentennial Ceremony (Secretary of the Army's Bicentennial Committee & Military Departments)

On August 7, 1989, the Department of Defense conducted a ceremony to observe the Bicentennial of the Establishment of the Department of War (Defense). In those early years, the Department of War supervised military, naval and Indian affairs. Thus, the War Department was the precursor to the present-day Department of Defense. The ceremony, replete with an Armed Forces Honor Guard and backdropped with the flags of the 57 States and Territories, was held at Fort Myer, Va. and included the dedication of a Living Legacy, the "Commander in Chief's Oak". The ceremony was co-hosted by the Honorable Richard B. Cheney, the Secretary of Defense, and the Honorable John O. Marsh, Jr., Secretary of the Army and Chairman, Department of Defense Constitution Bicentennial Executive Committee. The guest of honor was President George Bush.

200 Years of the Army Under the Constitution (Secretary of the Army's Bicentennial Committee & Military District of Washington)

On September 29, 1989, the Department of the Army conducted a ceremony to observe the Bicentennial of the Establishment of the Department of the Army under the Constitution. Legislation of this date 200 years ago mandated that all officers, noncommissioned officers and soldiers, most of whom were serving on frontier security duty, swear or affirm an oath to support the United States Constitution. The ceremony, backdropped by Army Color Guards of the Continental and modern eras, was held at the Pentagon Building and featured Reaffirmations of the Soldier's Oaths of 1789 and 1989 to Support and Defend the United States Constitution. The ceremony was co-hosted by the Honorable John W. Shannon, Undersecretary of the Army, Brigadier General William A. Stofft, Acting Director of the Army Staff, and Sergeant Major Julius W. Gates, Sergeant Major of the Army.

"Living Legacy" Programs

Living Legacy Tree Planting Program (Chief of Engineers)

In honor of the Bicentennial of the United States Constitution and the 23 Soldier-Soldierman Signers of this historic document, Army Engineers conducted the Soldier-Soldierman "Living Legacy" program during Constitution Week 1987. Oak seedlings were collected from Revolutionary battlefields for "Living Legacy" tree planting ceremonies held at 23 selected Army installations. Indigenous conifers were planted where it was determined oak seedlings would not survive.

Cadet Park (ROTC Cadet Command)

Cadet Park, Fort Monroe, Va., was established to honor the Bicentennial of the United States Constitution and the Reserve Officer Training Corps (ROTC) cadets who epitomize the Citizen-Soldier concept. The park contains picnic tables, trees and plants and a commemorative plaque. The park, open to the public, rejuvenated land which was once an oil storage area.

Constitution Grove (Secretary of the Army's Bicentennial Committee and Pennsylvania National Guard)

The Army Constitution Grove, Valley Forge National Historical Park, Valley Forge, Pa., was dedicated on July 31, 1987 and serves as a living tribute to the memory of George Washington's return to Valley Forge during the recess of the Constitutional Convention of 1787. It ties the sacrifices made at Valley Forge to the framing and signing of the United States Constitution. Active Army, Army National Guard and Army Reserve soldiers carrying flags of Army units which traced their lineage to Valley Forge and the era of the Constitutional Convention participated in the ceremony.

Freedom Grove (Corps of Engineers, Missouri River Division)

On September 17, 1987, to recognize the relationship of the civilian-controlled military and the military's special role in the founding of the nation, a grove of 23 trees was planted at Dam Site #20 on Papillion Creek, near Omaha, Neb. The trees were part of the cost-shared landscaping agreement for the local flood control project between the United States Army Corps of Engineers and the Papio Natural Resources District. The dedication ceremony involved the Corps of Engineers as well as the civilian community.

Constitution Grove (Tooele Army Depot)

A grove of 200 cherry trees planted by depot military members, on Tooele Army Depot, Tooele, Utah, in commemoration of the Constitution, was dedicated during a ceremony which symbolized 200 years of freedom under the Constitution. A monument marked the area "Constitution Grove." Trees were purchased with money donated by the Ophir Creek Water Company.

Runnymede Oak (Secretary of the Army's Bicentennial Committee)

On December 2, 1987, Secretary of the Army John O. Marsh, Jr., joined with British and U.S. Embassy officials to dedicate a living legacy at Runnymede, England. This oak, planted with soil from Jamestown, Va., the first permanent English settlement in the new world, commemorated the Magna Carta, the document which nourished the ideals of liberty and justice, and the United States Constitution signed nearly six centuries later.

Ratification Oak (Department of Defense)

On June 21, 1988 more than 500 Department of Defense employees observed the planting of a Ratification Oak on the grounds of the Pentagon in Washington, D.C. This ceremony commemorated the Ratification of the United States Constitution by New Hampshire, the ninth of the thirteen states, and thus, established the Constitution as the "law of the land." The ceremony host was John O. Marsh, Jr., Secretary of the Army and the honored guests included General Carl E. Vuono, Chief of Staff, Army, Grant Green, Assistant Secretary of Defense Force Management & Personnel and Dr. Ronald Trowbridge, Director of Federal and International Programs, Commission on the Bicentennial of the United States Constitution.

Captain Michael Doudel Oak (Secretary of the Army's Bicentennial Committee)

On January 21, 1989, the Department of the Army conducted a ceremony at York, PA, to honor the first rifle companies and their leaders who responded to the call to arms of the Continental Congress on June 14, 1775. This Congressional resolution, and response to it, were milestones on the road to establishment of our Republic under the Constitution and, particularly, the subordination of the military to civilian control.

James Monroe Oak (Secretary of the Army's Bicentennial Committee and Virginia National Guard)

On April 22, 1989, the Department of the Army conducted a ceremony at Colonial Beach, Va., to honor the leadership and selfless service of Soldier-Statesman President James Monroe. Today's Army leadership draws particular inspiration from James Monroe's selfless service, not only as President and statesman, but particularly, as a military leader. The patriotism, valor, physical fitness, heroism and tactical proficiency of James Monroe reflect those characteristics worthy of all who serve in leadership positions. The ceremony was hosted by John O. Marsh, Jr., and Senator John Warner, Virginia, participated.

George Washington Oak (Secretary of the Army's Bicentennial Committee and Virginia National Guard)

On April 22, 1989, the Department of the Army conducted a ceremony to honor the early years of George Washington's service on the Virginia Frontier. These contributions in the "Backcountry" were of incalculable value in preparing him to meet the extraordinary challenges which lay before him. It was most fitting for the U.S. Army to acknowledge and celebrate his remarkable achievements on behalf of the liberties and freedom that we cherish today. The ceremony culminated a conference hosted by Shenandoah College and Conservatory, Winchester, Va. Hosted by John O. Marsh, Jr.; Senator John Warner participated.

Concerts and Performances

Bicentennial Concert (United States Army Field Band)

The United States Army Field Band presented a concert to commemorate the United States Constitution Bicentennial. Held in the Concert Hall of the John F. Kennedy Center for the Performing Arts on September 14, 1987, the program consisted of musical selections and focused on Constitutional themes. Concert highlights included "We the People," the title composition on the U.S. Army Field Band's We the People Bicentennial record album and cassette. In addition, special Bicentennial Concerts were performed in Berlin, Augsburg, Karlsruhe, Pirmasens, Fulda, and Furth, Germany, during November-December, 1987.

Bicentennial Band Tour (89th U.S. Army Reserve Command)

During 1987 and 1988, the 89th U.S. Army Reserve Command's 312th Army Band conducted two-week Bicentennial concert tours. During its Annual Training periods the band presented Constitution Bicentennial concerts in 20 Kansas and Nebraska communities. In conjunction with the musical salutes, guests in each

community were invited to sign billboard-sized replicas of the Constitution. Replicas were later given to the communities for display in public buildings. For information telephone (316) 681-1759, Autovon 743-1759.

Bicentennial Band Concert Tour (Forces Command)

The 214th Forces Command Band toured California in September 1987. The band entertained 50,000 persons during the tour with musical selections of a Bicentennial flavor. Thirteen performances were scheduled in 12 cities, including a special Bicentennial performance in San Francisco and a noontime outdoor concert in Palm Springs. Concert programs contained information on the Bicentennial of the Constitution and on the role the military has played in defending the Constitution. Concerts in 1988 featured special Bicentennial music selections and narrative. In addition, a "Constitution Billboard" was exhibited in the lobby during performances. Concerts in 1989 presented a similar format. For information telephone (404) 669-5676, Autovon 588-5676.

Constitution Bicentennial Concert Tour (389th Army Band, United States Army Materiel Command)

The Army Materiel Command's 389th United States Army Band Bicentennial Concert Tour presented 55 concerts during its 1987 nationwide tour. Including such cities as St. Louis, Mo.; Warren, Mich.; and San Francisco, Calif., the band played to military and civilian audiences of more than 60,000 persons. Portions of some concerts were televised locally. The Army Materiel Command's accompanying Constitution Bicentennial Exhibit was displayed at concert sites.

Races and Relays

Constitution Relay (Fort Monroe, Virginia)

Fort Monroe, in cooperation with Headquarters, Army Training and Doctrine Command (TRADOC), sponsored a Constitution Relay in which 200 runners participated in a continuous relay from Washington, D.C. to Fort Monroe, Va., 15-17 September 1987. The relay began with a National Archives ceremony, hosted by John O. Marsh, Jr., Dr. Frank Burke, Acting Archivist of the United States and the Honorable Marion Barry, Mayor of Washington, D.C. Copies of the Constitution were presented to ten communities along with the relay route. The run coincided with Fort Monroe's Constitution Bicentennial celebration.

172-Mile Constitution Relay-Run (Davison Aviation Command and Fort Belvoir, Virginia)

In commemoration of the Bicentennial of the Constitution, a 13-member running team from United States Army Davison Aviation Command and Fort Belvoir, Va., carried a copy of the Constitution from Fort Belvoir to Philadelphia, Pa. Each runner symbolically represented one of the original states carrying a miniature state flag. The relay-run ended with a ceremony at Independence Hall with John O. Marsh, Jr., Secretary of the Army, accepting the copy of the Constitution after its 172-mile journey from Fort Belvoir, Va.

Commemorative Items

"We the People" Constitution Commemorative Recording (United States Army Field Band)

The United States Army Field Band produced a commemorative record album and cassette celebrating the Constitution Bicentennial. The album features "We the People," a special composition by Master Sergeant Ken McCoy, Army Field Band Staff Arranger, and other patriotic selections. Army Recruiting Command has distributed cassettes with sheet music for choral and band arrangements of "We the People" to 27,000 high schools across the nation. The National Archives gift shop offers audio cassettes for sale to the public.

*** Commemorative Medallion (Secretary of Army's Bicentennial Committee)**

A Bicentennial Commemorative Medallion marks the Bicentennial of the United States Constitution, 1787-1991. Major Army commands and each military service received medallions for use in their Bicentennial celebrations. The obverse of the antiqued bronze medallion bears the Department of Defense Bicentennial logo. The reverse depicts the Preamble of the Constitution, and highlights the Department of Defense Bicentennial theme, "provide for the common defence."

"We the People" Bicentennial Recording (United States Air Force Tactical Air Command)

Tactical Air Command's 564th Air Force Band, Langley Air Force Base, Va., produced "We the People," a Bicentennial recording to celebrate the 200th Anniversary of the Constitution. The album jacket cover cited Air Force readiness to serve in support and defense of the Constitution. "We the People," a collection of patriotic music, celebrates the Bicentennial of the United States Constitution and was produced on album, cassette and compact disc.

*** "We the People: Birth of a Dream" (United States Air Force Military Airlift Command)**

This collection of music, produced by the 528th Air Force Band at Scott Air Force Base, Ill., commemorates the Bicentennial of the United States Constitution, instills pride and patriotism, and emphasizes the spirit of today's Military Airlift Command. It has been produced as an album, cassette tape, and compact disc.

"Americans We" Bicentennial Album (United States Navy Band)

The United States Navy Band recorded a Constitution Bicentennial album, "Americans We." The album was distributed to broadcast stations, libraries and educational institutions. The album features American Composers and includes the National Anthem and marches. The tape is available to educational institutions, museums and veterans organizations by calling (202) 433-6090/2394.

"Provide for the common defence - secure the Blessings of Liberty" Poster (Secretary of the Army's Bicentennial Committee)

The Department of Defense Bicentennial of the Constitution poster, 'provide for the common defence - secure the Blessings of Liberty,' features an eagle on a blue background. White stars and horizontal shades of lighter blue suggest the United States flag. The eagle in flight is clutching an olive branch and arrows, symbolizing Department of Defense readiness. The poster title reinforces the DoD commitment to the Constitution, as stated in the Preamble, and the readiness of the Armed Forces to fulfill their oath to support and defend the Constitution, thereby preserving freedom for all Americans.

Ratification Bicentennial 1788/1988 Poster (Secretary of the Army's Bicentennial Committee)

The Department of Defense Bicentennial of the Ratification of the Constitution 1788/1988 Poster features the Preamble to the Constitution, a Revolutionary soldier and the United States flag on a royal purple background with the phrases 'Honoring our Soldier-Statesman' and 'Ratification Bicentennial 1788-1988'. The phrase 'Honoring our Soldier-Statesman' highlights the importance of the men who both fought the War of Independence and those who participated in the Constitutional Convention and the State Ratification Conventions.

Constitution Bicentennial Poster (Army Corps of Engineers)

The Army Corps of Engineers commemorative poster supported a September 1987 Corps-wide celebration commemorating the Constitution Bicentennial. The poster featured the Constitution printed in gold upon a black background. Fourteen pentagon-shaped color and black-and-white photographic insets illustrated Corps vision and values drawn from the Constitution.

Soldier-Statesmen of the Constitution Souvenir Card (Secretary of the Army's Bicentennial Committee)

The Soldier-Statesmen Bicentennial Souvenir Card detailed contributions of the 23 Soldier-Statesmen Signers of the Constitution. The card was created to provide information on the Soldier-Statesmen Signers and to honor the initiative and miracle behind the Constitution. The Souvenir Card was distributed to schools, defense activities and to the general public as an educational resource.

Ratification Bicentennial Souvenir Card (Secretary of the Army's Bicentennial Committee)

This souvenir card converts the popular 1988 Department of Defense poster into a memento, teaching and information aid. The souvenir card features a Revolutionary soldier and the United States flag on a royal purple background with the phrases 'Honoring our Soldier-Statesman' and 'Ratification Bicentennial 1788/1988.' The back of the card includes a list of the states with the dates that each ratified the Constitution. The inside features a short narrative emphasizing the importance of the Soldier-Statesman contributions to the Nation and the individual states.

*** Soldier-Statesman Presidents 1789/1989 Poster (Secretary of the Army's Bicentennial Committee)**

The poster features portraits of each of the thirty presidents with military service. The phrases "The Department of Defense Honors the Soldier-Statesman Presidents of the United States 1789-1989" and "provide for the common defence-secure the Blessings of Liberty" span the bottom third of the poster.

Soldier-Statesman Presidents 1789/1989 Souvenir Card (Secretary of the Army's Bicentennial Committee)

The souvenir card incorporates the popular 1989 poster into a memento, teaching aid and information tool. The souvenir card features the seal of the President of the United States and the DoD logo on separate front pages which open to portrayal of the 30 presidents with military service. The back of the card identifies the specific military service of each of the 30 presidents. Also included in the card is the Oath of Office of the President and the Soldier's Oath.

Armed Forces Inaugural Committee Advertorial and Poster

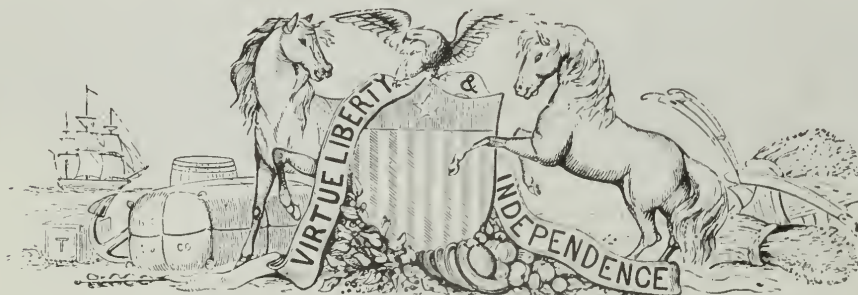
The black and white poster incorporates images of the Constitution and photographs of servicemembers working behind the scenes and on the frontlines of the 1989 inauguration celebration. The poster serves to tell the story of how the armed forces assists and participates in the Presidential Inauguration process.

History Teachers' Poster (Office of the Chief, Army Reserve)

The four-color poster graphically displays and importance of the Army Reserve in the defense of our Constitution and Bill of Rights by incorporating colonial and present-day images of Army Reserve soldiers as defenders of the Constitution. The poster was mailed to 10,000 high schools nationwide in order to stimulate discussions in history and civics lessons.

"We the People" Flags (Defense Logistics Agency)

The Defense Personnel Support Center, Philadelphia, Pa., crafted three hand-embroidered flags displaying the logo of the Commission on the Bicentennial of the United States Constitution. One flag was presented to the Office of the President, one to the National Commission on the Bicentennial, and the third to the Department of Defense for use during ceremonies and special events. At the conclusion of the Bicentennial period, the National Commission flag will be given to the Smithsonian Institution for historical record and the DoD flag will be placed on permanent display in the Pentagon.



Adopt-A-School Program

The goal of the Adopt-A-School Program is to improve the quality of educational systems through the enrichment of school curricula. The program was:

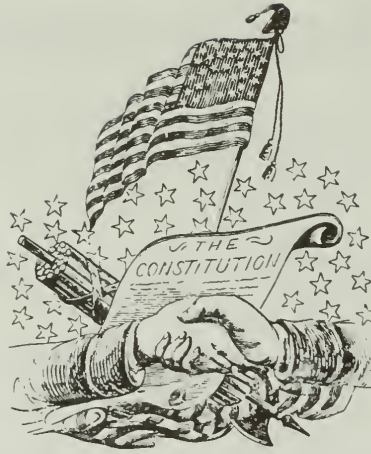
- initiated in support of the President's National Partnership in Education Proclamation of October 1983
- a voluntary partnership established between schools, school districts and local communities
- extended to public and private schools at all levels of education
- to be implemented and managed by local superintendents of schools or the board of education
- supportive of school educational goals

A wide variety of activities may be conducted by Department of Defense communities in support of the Adopt-A-School Program. These include:

- guest tutoring, lecturing and/or speaking
- assistance as Teacher Aides
- providing resource materials and/or equipment
- sponsorship of educational, cultural and athletic events
- providing career educational assistance

The Adopt-A-School Program is an investment in improving the quality of American education and citizenship. Participating defense organizations benefit through improved individual morale and self-esteem, and through an increased sense of community involvement.

The Adopt-A-School Program enhances the image of military personnel as responsible members of the community and provides an excellent opportunity for the development of strong positive relationships between Department of Defense organizations and local schools and school districts.



CHAPTER VIII

Suggested Activities

Suggested List of Programs and Activities for Commemorating the Bicentennial of the United States Constitution

(These projects and activities are not intended solely for military units or installations. With some modification, most can be utilized by civilian organizations and communities.)

1. Individually or collectively reaffirm oath to support and defend the Constitution. There are many appropriate occasions for this activity, such as promotion and re-enlistment ceremonies, Armed Forces Day, Independence Day, Constitution Week, Yorktown Day, Service Birthdays and State Birthdays. A Letter of Instruction is available to guide planning.
2. Include the Constitution in Uniform Code of Military Justice briefings.
3. Publish selected reviews, articles, or excerpts in unit bulletins or command newspapers.
4. Either as a separate project or in conjunction with another, sign canvas or paper Constitution reproductions. Display prominently in unit area where all unit members and visitors can view it. For added significance, make the reproduction a permanent display; invite unit members to visit and sign; and organize a small ceremony having new members sign. Remember to record the event with photographs.
5. Include in religious services a tribute to the religious freedom guaranteed under the Constitution.
6. Plant a single tree (e.g., Constitution Oak, Liberty Maple, Freedom Pine), a Constitution Garden, or a Constitution Grove as living tribute to the Soldier-Statesman signers/ratifiers of the Constitution. This could be a unit activity, with plantings in the unit area or near an armory or reserve center. Additional plants could be added each year to commemorate an event meaningful to the unit (such as Arbor Day, Constitution Week, Yorktown Day, Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, Service Birthday or State Birthday.) This affords opportunity to include State/Local/City Park officials, National Park Service, or scout troops in a community-wide Constitution tribute.
7. In conjunction with local community, include Constitution Bicentennial activities in planning of domestic action projects.
8. During unit organization/boss/family day, or other unit celebration, emphasize the Constitution Bicentennial as a program theme to civilian guests/family members and ask unit members to speak on "What the Constitution means to me...a citizen and a soldier (sailor, marine, airmen, coast guardsman)."
9. Involve servicemembers and civilian participants to conduct a public "reading" of the Constitution during unit organization day or other appropriate event.
10. During staff meetings, professional development seminars, and commanders call, emphasize Bicentennial of the Constitution annual educational objectives by

reading quotes, showing one of the many films or videotapes available; or inviting speakers to address the group.

11. Use posters and facsimile reproductions of photographs, documents or quotes to create a "Constitution Corridor", "Gallery of Freedom," or "Freedom Shrine": or other appropriately named display of freedom documents.

12. Sponsor poster and essay contests on a Bicentennial theme.

13. Participate in state celebrations.

14. Encourage library displays of books on the Constitution, particularly yearly Bicentennial themes. Distribute bookmarks with a Bicentennial message.

15. Food Service activities could serve a "Bicentennial" meal, featuring fare typically served Revolutionary War soldiers. Thanksgiving may be an appropriate time to show the sacrifices made by the citizen-soldier framers/ratifiers of the Constitution. Realism might be added if the meal were served in a field, rather than garrison, environment.

16. Identify local "Soldier-Statesmen" --individuals who have served in the armed forces and have held, or hold, local and state public office--and include them in your Constitution celebrations.

17. Community theaters and entertainment centers re-enact the signing of the Constitution or other period drama directly related to statehood and/or state history. Scripts, music and lyrics are available.

18. Display red, white, and blue streamers during special celebrations commemorating the Constitution, particularly during Constitution Week, (i.e., "Bells Across America" on 17 September of each year).

19. Make a Bicentennial Quilt. Get public affairs coverage, place it in museum, display in library, or use as a fund-raiser and raffle it off.

20. Bicentennial Cookbook: 200 Years (201, 202) of traditional American recipes.

21. Participate in local parades with a color guard or marching unit. The marching unit could be comprised of 23 servicemembers representing the Soldier-Statesman signers of the Constitution, or 204 servicemembers representing the military's defense of freedom for 204 years.

22. Include a display of DoD Bicentennial materials (educational materials that explain role of Soldier-Statesman signers) at malls and county fairs. Materials are available for this purpose.

23. Include Bicentennial references in speeches to internal (change of command, area schools, conferences) audiences as well as military associations and civilian audiences. Speech materials are available, as well as a booklet, *Blessings of Liberty: Quotations on the Constitution*.

24. Commands with bands could present pageants of music and narration to military and civilian audiences. Narrative portions could combine military and civilian guest participants. Concert program could include music popular during

ratification era (18th century music and lyrics are in Appendix B of the Bicentennial of the Constitution Resource Guide). DoD service bands have arrangements which can be used.

25. Present soldier/sailor/airman/marine/coast guardsman of the quarter with a Bicentennial medallion or parchment replica of the Constitution (or other commemorative item related to Constitution) as part of recognition ceremony.

26. Designate representative to actively represent Command or unit on community or state bicentennial commission/committee. Reinforce military identity by wearing uniform during all contacts.

27. Develop a "Constitution Trail" where cardiovascular exercises are combined with information on the Constitution and its adoption (for example, designate Bill of Rights/Amendment exercise stations).

28. Participate in community "fun run" with a symbolic entry, such as 23 representing the Soldier-Statesman signers of the Constitution. A race package is available from the Secretary of the Army's Bicentennial Committee which includes art and ideas on how to incorporate Bicentennial theme into any run.

29. Include Bicentennial messages on bulletin boards.

30. Include the 1987-1991 DoD Bicentennial logo on agency/command letterhead, programs, and other appropriate publications.

31. Use a Bicentennial theme for events such as graduation ceremonies, festivals, ball, races and runs, and organization days.

32. Invite high school band to provide Bicentennial concert during Constitution Week.

33. Participate in DoD "Adopt-A-School" program, which offers an excellent opportunity for installations, USAR and National Guard units to increase the awareness and understanding of the Armed Forces mission to provide for the common defense as stated in the Preamble.

34. Encourage installation youth organizations to participate in Bicentennial activities.

35. If overseas, invite host nation personnel to U.S. Constitution celebrations. Constitution translations are available in Arabic, Chinese, German, Korean, French, Portuguese, and Spanish. U.S. Embassies can provide some materials.

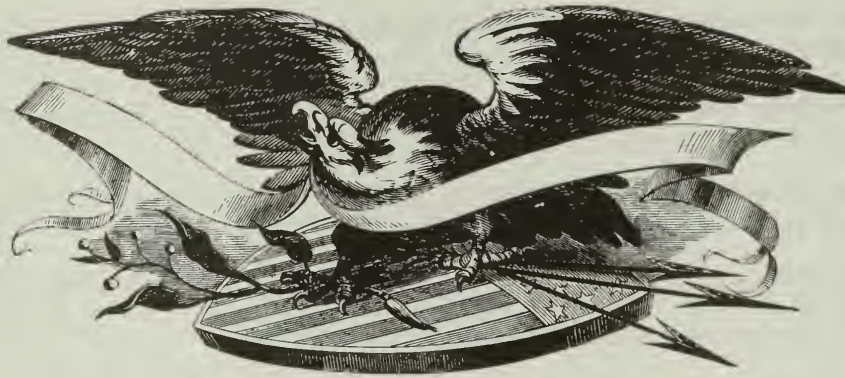
36. Some states have re-enactment units that establish a Colonial period encampment which authentically recreate military camps, to include uniforms, civilian clothing, food, and way-of-life.

37. Locate descendants of signers of the Constitution, or descendants of prominent Soldier-Statesmen in your state. Include these people in your celebrations. Sources: Daughters of the American Revolution, Sons of the American Revolution, other patriotic organization, Library of Congress, and public libraries.

38. Sponsor--in conjunction with the Association of the United States Army, the Reserve Officers Association, or similar patriotic organizations --a trip to historic sites, to learn about the sacrifices of our veterans and soldier-statesmen through history, or visit your local government buildings to learn about the democratic process.
39. Include legal, religious, and journalist speakers in your Speakers Bureau and have them available to talk on various Constitutional freedoms.
40. Include a Bicentennial message with your mail. Fort Belvoir has developed four messages for use with a postage meter. [AUTOVON 345-6351; Commercial (703) 664-6351.]
41. Youth groups can raise money by selling automobile sun shades with a Bicentennial message, "Fort/Base/Ship _____ is proud to be a Bicentennial Defense Community.", or sell bumper stickers which proclaim that "Fort/Base/Ship _____ is proud to be a Bicentennial Defense Community."
42. Proclamation: publish a Proclamation in your installation newspaper during Constitution Week, and encourage community civilian newspaper to use Proclamation in support of military.
43. The Armed Forces Radio and Television stations could sponsor Constitution Bicentennial Contests using questions on the Constitution with prizes awarded to the first to call in (e.g., tickets to shows, a tape or record).
44. Place a time capsule with your State Constitution and Constitution Bicentennial Program to be opened during Constitution Tercentenary.
45. Installation cable or closed-circuit television can carry Bicentennial public service announcements.
46. Hold an autumn Colonial Craft Fair.
47. Sponsor voter registration drive. "Vote, it's good for your Constitution."
48. Re-dedicate the names of streets, buildings, or trees to honor the Constitution, Ratification, Bill of Rights, or name of well-known State/Federal personage.
49. An antique show could focus on colonial art, furniture, and stemware.
50. Make reaffirmation of the oath to support and defend the Constitution a tradition, either annually during Constitution Week, or at other significant times throughout the year.
51. Become a recognized Bicentennial Defense Community and fly the official Constitution Bicentennial Flag.
52. Dedicate basic training "yearbooks" to the Constitution.
53. Host a tournament for area high school debate teams on issues, such as "Is It a Constitutional Right to Bear Arms?," "Volunteer vs. Mandatory National Service," or "Federalist vs. Anti-Federalist Political Theories."

54. Include installation/command Constitution Bicentennial activities in official briefing.
55. Dedicate an Armory or Reserve Center to a Signer of the Constitution or other significant Soldier-Statesman in history.
56. Invite local officials, veterans, members of the judiciary, to speak on the meaning and significance of the Constitution.
57. Participate in "A Celebration of Citizenship" during Constitution Week.
58. Conduct open houses with Constitutional exhibits.
59. Dedicate Inactive Duty for Training and Annual Training periods to a signer or significant Soldier-Statesmen in history.





CHAPTER IX

"How To" Guides

- Oath Reaffirmation Ceremony
- Tree Planting Ceremony
- Wreath Laying Ceremony
- Essay Contest
- Time Capsule

Oath Reaffirmation Ceremony

1. Situation. In honor of an occasion/event: e.g., The Constitution, Armed Forces Day, Law Day, or Unit Organization Day, units are encouraged to hold a special Oath of Office or Enlistment Reaffirmation Ceremony.

2. General. This observance may be conducted on an appropriate date in accordance with this Letter of Instruction. Although the event is voluntary in nature, participation by all personnel, military and civilian (including tenant activities), is urged. The oath reaffirmation should be simultaneously administered to demonstrate the spirit of cooperation and fellowship that exists between all activities in their service to the nation and support of the Constitution.

3. Concept of Operation.

a. Post-wide observances should be simultaneously conducted at a date and time to permit all personnel the opportunity to voluntarily reaffirm their oath of office or enlistment.

b. The observances may be held outside or indoors by every unit, organization, activity, office or staff section. Each commander, director, activity chief, can determine where personnel will be assembled for the special observance.

c. Each individual should receive a special certificate commemorating his participation in the event. These certificates can be made unit specific by adding unit crest, emblem or motto to space on either side of the certificate.

d. A single cannon salute can be fired at time designated and commanders, directors, activity chiefs, can then administer the oath to all assembled personnel from their respective activities. The Commanding General, or his designated representative, should administer the oath to personnel assembled on the Parade Field.

e. Although maximum participation is desired, there should be no disruption of essential activities including scheduled classes. Personnel not participating in the actual observances should continue in their normal duty assignments.

f. In the event of inclement weather, each commander, director, activity chief, should administer the oath within their respective activity building(s). The single cannon salute would still take place.

4. Responsibilities.

a. Commanders, directors, and activity chiefs should:

(1) Ensure that all civilian and military personnel assigned to their organization are informed of the special observance and are allowed the opportunity to participate.

(2) Designate the oath reaffirmation site for their organization's personnel IAW the LOI provisions herein and administer oath to their personnel at the appointed time (and/or designate representatives to do the same).

(3) Provide the names of participants from their respective organization to the ceremony project officer so that "Oath of Office"/"Oath of Enlistment" certificates can be prepared.

b. Other responsibilities to be designated based upon your particular situation.

(1) Units for participation in event on parade field.

(2) Marking of parade field.

(3) Ceremonial cannon, salute round, and gun crew

(4) PA System

(5) Invocation

- (6) Media coverage (before, during, and after event)
- (7) Musical support
- (8) Distribution of participation certification
- (9) Traffic control

Proposed Sequence of Events

- D - Unit to their final positions on the parade field (the field will be marked off).
- D + 1 - The Adj. directs - "BRING YOUR UNITS TO ATTENTION and PRESENT ARMS." Each Cdr, in sequential order, responds to the Adj's directions.
 - Once all units are at present arms, the Adj. faces about, executes present arms and reports to the Cdr of Troops -- "SIR, THE UNITS ARE FORMED."
 - The Cdr of troops salutes and directs the Adj. to take his or her post. Once the Adj. has taken his or her position, the Cdr of troops commands -- "ORDER ARMS, PARADE REST." The Cdr of troops faces about and assumes the position of parade rest.
- D + 5 - The announcer introduces the CG. "Ladies and gentlemen, please stand for the arrival of the CG." The CG and Chaplain move to review stand.
 - The Cdr of troops comes to attention, faces about and commands "ATTENTION, PRESENT ARMS." The Cdr of troops faces about, executes present arms and reports to the CG -- "SIR, THE COMMAND IS FORMED."
 - The CG and Cdr of troops exchange salutes.
 - The Cdr of troops faces about and commands "ORDER ARMS, PARADE REST." The Cdr of troops faces about and assumes the position of parade rest.
- D + 7 - The announcer introduces the Chaplain.
 - The Chaplain gives invocation.
- D + 9 - The announcer introduces the CG.
 - The CG gives appropriate remarks.
- D + 14 - Upon completion of remarks, the announcer states -- "Ladies and gentlemen, please stand for the firing of the ceremonial cannon and the Reaffirmation.
 - The Cdr of troops comes to attention, faces about and commands "ATTENTION." The Cdr of troops faces about and assumes the position of attention.
- D + 16 - The cannon is fired.

- The CG administers the Oath. "Ladies and gentlemen, will you please raise your right hand and repeat after me."
- All respond to the CG's instructions.
- Upon completion of the Oath, the CG will state "Ladies and gentlemen, please lower your right hand."
- The Cdr of troops faces about and commands -- "PARADE REST." The Cdr then faces about and assumes the position of parade rest.
- The CG will give closing remarks. Once the remarks are completed, the CG will return to his original position on the reviewing stand.
- The Cdr of troops comes to attention, faces about and commands -
- "ATTENTION." The Cdr faces about, executes present arms and reports to the CG -- "SIR, THIS CONCLUDES THE CEREMONY."
- The CG and Cdr exchange salutes.
- The CG and Chaplain face about and depart the reviewing stand.
- The Cdr of troops faces about and directs -- "COMMANDERS TAKE CHARGE OF YOUR UNITS."
- The Cdr of troops dismisses his staff and departs the parade field.

Proposed Remarks

I WANT TO WELCOME YOU TO THIS IMPORTANT CEREMONY TODAY. ALL OF US WHO SERVE OUR COUNTRY, BOTH MILITARY AND CIVILIAN, TAKE AN OATH TO SUPPORT AND DEFEND OUR CONSTITUTION WHEN WE ENTER SERVICE. TODAY WE HAVE THE UNIQUE OPPORTUNITY TO REAFFIRM THAT OATH.

ON SEPTEMBER 17, 1787, "THE MOST PERFECT FEDERAL CONSTITUTION THAT EVER EXISTED." WAS SIGNED AT PHILADELPHIA. TODAY, WE CELEBRATE THE BODY OF LAWS THAT ARE BUILT ON THIS MOST PERFECT OF CONSTITUTIONS. DURING THIS, THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION, IT IS MOST APPROPRIATE THAT WE DO SO.

IT ALSO IS APPROPRIATE THAT WE JOIN TOGETHER FOR THIS REAFFIRMATION. FOR IT IS THE SPIRIT OF TEAMWORK AND COOPERATION THAT HAS MADE OUR NATION'S FORM OF GOVERNMENT AND OUR ARMED FORCES THE ENVY OF FREEDOM LOVING PEOPLES AROUND THE WORLD.

WE WHO SERVE IN AND WITH THE ARMED FORCES DEFEND AND FIGHT FOR THE PRINCIPLES OF JUSTICE AND LIBERTY

EMBODIED AND DEFINED IN THE CONSTITUTION. WHEN WE TAKE THE OATH OF OFFICE AND ENLISTMENT, IT IS TO THE CONSTITUTION ITSELF THAT WE VOW TO BEAR TRUE FAITH AND ALLEGIANCE. WE DO NOT SWEAR OR AFFIRM TO SUPPORT AND DEFEND A PERSON OR A POLITICAL PARTY, WE SWEAR TO SUPPORT AND DEFEND THE CONSTITUTION--THE PEOPLE OF THE UNITED STATES.

BUT WE CANNOT EFFECTIVELY SUPPORT AND DEFEND THAT WHICH WE DO NOT UNDERSTAND. YOU HAVE ALREADY SHOWN, BY YOUR FIRST TAKING THE OATH AND NOW BY PARTICIPATING IN THIS OATH REAFFIRMATION CEREMONY, THAT YOU BELIEVE IN THE CONSTITUTION AS AN IDEA. I NOW CHALLENGE YOU TO STUDY THAT IDEA.

DR. LEONARD LEVY, AN HISTORIAN, SAID OF OUR RIGHTS UNDER THE CONSTITUTION THAT "THE ONE ESSENTIAL TO ALL THE REST, AND TO THE VERY IDEA OF SELF-GOVERNMENT ... IS INTELLECTUAL FREEDOM -- GUARANTEED IN THE CONSTITUTION AS FREEDOM OF SPEECH, PRESS, ASSEMBLY AND RELIGION."

I CHALLENGE YOU TO EXERCISE INTELLECTUAL FREEDOM TO LEARN ABOUT OUR CONSTITUTION. BEGIN BY READING THE DOCUMENT. THEN READ THE STORY OF HOW THE DOCUMENT WAS CREATED AND THE HISTORY OF THE MEN WHO CREATED IT. ATTEND BICENTENNIAL EVENTS IN THE AREA. READ, TALK, THINK. IT IS PART OF YOUR LEGACY AS AN AMERICAN.

AND NOW, LET US REAFFIRM OUR DETERMINATION TO PRESERVE THAT LEGACY BY TAKING, IN UNISON, THE OATH OF OFFICE AND ENLISTMENT. THE REAFFIRMATION OF THE OATH OF OFFICE WILL BE ADMINISTERED FIRST FOR OFFICERS AND CIVILIAN PERSONNEL AND THEN THE REAFFIRMATION OF THE OATH OF ENLISTMENT WILL BE ADMINISTERED TO ALL ENLISTED PERSONNEL:

**(COPIES OF THE OATH CERTIFICATES ARE ATTACHED.
REPRODUCIBLE COPIES ARE IN CHAPTER XI.)**

LET ME LEAVE YOU WITH WORDS SPOKEN BY PRESIDENT GROVER CLEVELAND ON THE 100TH ANNIVERSARY OF THE CONSTITUTION: "IF THE AMERICAN PEOPLE ARE TRUE TO THEIR SACRED TRUST, ANOTHER CONSTITUTIONAL CENTENNIAL DAY WILL COME, AND MILLIONS YET UNBORN WILL INQUIRE CONCERNING OUR STEWARDSHIP AND THE SAFETY OF THEIR CONSTITUTION. GOD GRANT THAT THEY MAY FIND IT UNIMPAIRED."

I AM HAPPY TO REPLY TO PRESIDENT GROVER CLEVELAND'S WORDS THAT OUR CONSTITUTION HAS SURVIVED THESE YEARS UNIMPAIRED. IT IS NOW UP TO US AND TO OUR DESCENDANTS TO ENSURE THAT THE SAME CAN BE SAID 100 YEARS FROM NOW.

Reaffirmation of "Oath of Office"

FOR ILLUSTRATION ONLY

FOR ILLUSTRATION ONLY

We it know that

did reaffirm the "Oath of Office"
in honor of the Bicentennial of the
United States Constitution 1987 - 1991

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter. So help me God."

On _____

At _____

Commanding Officer



FOR ILLUSTRATION ONLY

Reaffirmation of "Oath of Enlistment"

FOR ILLUSTRATION ONLY

We it known that

did reaffirm the "Oath of Enlistment"
in honor of the Bicentennial of the
United States Constitution 1987 - 1991

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God."

On _____

At _____



Commanding Officer

Tree Planting Ceremony

During the writing of the United States Constitution in 1787, Bartram's Garden in Philadelphia, founded by America's first recognized botanist, John Bartram, hosted a visit by Constitution Convention members. Together with George Washington, John Adams, and Benjamin Franklin, William Bartram planted various species of trees. Some of those trees remain, a living legacy and reminder of the establishment of our Constitution.

Our Founding Fathers knew the value of plants. George Washington planted both trees and flowers at his estate, Mount Vernon. Similarly, Thomas Jefferson's home, Monticello, is still adorned by the gardens he established, which have since been restored. Many of the original trees planted by Washington and Jefferson survive today as "Living Legacies" to their love for plants and their respect for the beauty and bounty of nature.

As our Nation matured, so did its landscape, both in rural and urban areas. The old market squares of Europe became the town commons of New England and the Courthouse squares of the Midwest. The westward movement of wagon trains caused the prairies to give way to hedgerows and crops. In the arid West, barren lands were made productive by transporting precious water. Irrigation created new farmlands and made possible the planting of parks and gardens.

The flood of immigrants and the Industrial Revolution transformed cities, causing urban dwellers to lose touch with their rural heritage.

Recognizing this, Frederick Law Olmsted, the father of landscape architecture in the United States, designed city parks to provide beauty and respite from the pressures of city life.

Around the time of the Constitution's Centennial, many cities began to establish municipal gardens and parks, and the first National Parks were created to protect our great scenic wonders.

Today, some of the green oases created by earlier generations have been lost to development, and others are sadly neglected. Fortunately, many citizens and organizations have become actively involved in worthwhile projects to preserve and beautify our national landscape. The Bicentennial celebration provides a unique opportunity to enlist the great American spirit of public service by encouraging planting projects in communities that will become new "Living Legacies" to the United States Constitution.

The following examples show sequences of events and program copy for the commemorative tree planting ceremonies.



The "Captain Michael Doudle Oak" and Plaque Dedication Ceremony

The Continental Congress, on June 14th, 1775, resolved that 10 "companies of expert riflemen be immediately raised." This resolution, and the response to it, were milestones on the road to establishment of our Republic under the Constitution.

The United States Army and the Pennsylvania National Guard are proud to participate in the continuing observance of the Bicentennial of the United States Constitution, which they are sworn to defend.

Today's Army traces its lineage to such patriots as those who rallied to the call of the Continental Congress. Among the first of these were frontiersmen from York County, Pennsylvania who assembled here while their counterparts did similarly in eight other locations across the Commonwealth. Under Captains such as Michael Doudle, who provided leadership of the highest order, these American Riflemen projected uncommon dedication and courage. Their indomitable spirit of freedom helped forge the Nation.

Dedicated January 21, 1989.

21 January 1989

**Colonial Courthouse,
York, Pennsylvania**



**"The United States Army Recalls Its
Beginnings and Honors The Constitution"**

**21 January 1989
York, Pennsylvania**

**SEQUENCE OF
EVENTS**

Pre-Ceremony Parade

The National Anthem

Invocation

Welcome

Introduction

Remarks

Response

**Dedication of the "Captain Michael
Doudle Oak" and Plaque**

Benediction



The "George Washington Oak" Dedication Ceremony

On the morning of April 30th, 1789, George Washington was sworn in as our first President at Federal Hall in New York City. Long before this momentous event, the Father of our country served his military apprenticeship on the Virginia Frontier with headquarters in present-day Winchester, Virginia. His early service in the Backcountry was of incalculable value in preparing him to meet the extraordinary challenges which lay before him. It is most fitting to acknowledge and celebrate his remarkable achievements on behalf of the liberties and freedom that we cherish today.

The United States Army, the Virginia National Guard, and the Maryland National Guard, are proud to participate in the continuing observance of the Bicentennial of the United States Constitution, and to honor the many significant contributions of George Washington to the Army and the Nation.

Today's Army leadership draws particular inspiration from George Washington's selfless service, not only as President and statesman, but, particularly, as a military leader. The patriotism, valor, stamina and military proficiency of George Washington reflect those characteristics worthy of all who serve in leadership positions.

April 22, 1989

**Washington's
Headquarters
Winchester, Virginia**



**"The United States Army Honors
George Washington in the Backcountry "**

**2:30 p. m.
April 22, 1989
Washington's Headquarters
Winchester, Virginia**

SEQUENCE OF EVENTS

Pre-Ceremony Concert

Invocation

Welcome

**Dedication of the
"George Washington Oak" and Plaque**

Remarks

The National Anthem

Wreath Laying Ceremony

1. The dignitary who is to place the wreath arrives and is met by the host at the dismount point (Position A) and is briefed by the ceremony Officer in Charge (OIC).

2. Following the briefing, the official party, consisting of the dignitary, host, chaplain, and the ceremony OIC, forms a column of twos and approaches the cordon. (The number of troops in the cordon and color guard will depend on the spaces available at each site and the availability of troops.)

3. As the official party reaches its positions in front of the grave, the cordon commander orders the cordon to ATTENTION and PRESENT ARMS.

4. When the members of the official party reach their positions in front of the grave, the cordon commander will command ORDER ARMS.

5. The chaplain will then move to a position facing the official party and offer an appropriate prayer. (The official party and spectators remove their hats at the same time the chaplain does.)

6. At the conclusion of the prayer hats are replaced, the wreath bearer will step forward with the wreath, halt in front of the dignitary, and assist in placing the wreath. The cordon will PRESENT ARMS as the dignitary places his hands on the wreath. Once the wreath is placed, the dignitary will step back to a position beside the host and salute by placing the right hand over the heart (render the hand salute if in uniform). The other members of the official party will salute when the cordon goes to PRESENT ARMS.*

7. After an appropriate pause (five seconds) the cordon will ORDER ARMS. (The members of the official party will terminate their salutes on that command.)

8. Following ORDER ARMS, the cordon and official party will observe a moment of silence and reflection upon the meaning of the ceremony.

9. The OIC will announce the conclusion of moment of silence and introduce the dignitary. The dignitary will then offer remarks concerning the honoree and his contributions to the country. The cordon may be placed at PARADE REST prior to the remarks.

10. The host will then escort the dignitary through the cordon to the dismissal point. As the official party begins to move through the cordon, the cordon commander will bring the cordon to PRESENT ARMS. ORDER ARMS will be given when the official party has passed through the cordon.

11. When the dignitary departs, the colors will be retired and the troops dismissed.

* At the gravesite: "TAPS" should be played after the wreath is placed and the host is repositioned (between PRESENT ARMS and ORDER ARMS).

DIAGRAM OF CEREMONY



4 COLOR GUARD
(US & ARMY COLORS)

X - WREATH BEARER

X - BUGLER *



CORDON →

← CORDON

CORDON COMMANDER

WALKWAY →

ANY STREET

1. DIGNITARY
2. HOST
3. CHAPLAIN
4. CEREMONY OIC

* IF REQUIRED

Essay Contest

1. The critical element in the sponsorship of an essay contest is a specific, easily understood set of contest rules. The following items should be included:

- a. Who is eligible to participate?
- b. What is the contest question or topic?
- c. Essay format (example: 300-500 words in length, typed or carefully handwritten, double spaced).
- d. Submission deadline and location.
- e. Essay grading system (example: 100-point scale based upon content (50 points), clarity of thought (30 points), spelling/grammar (15 points), and neatness (5 points).
- f. Identify contest judges.
- g. Awards to include participation recognition.
- h. Only one submission per participant.
- i. Submission must be the original work of the participant. Reference materials should be appropriately cited.

Depending upon the size of the community, sub-contests can be established as part of the overall contest. Instead of one submission per participant, you can limit to one submission per battalion or one per eighth grade history class. Also, awards can be provided to different age groupings. Awards also could be presented to the best submission from a service member, dependent, and civilian. Essay contests are constrained only by imagination, time availability, and awards for presentation.

2. Essay contest can be announced and publicized through public affairs networks, local media, post newspaper, commanders call.

3. Awards may include: US Savings Bonds of various denominations, passes for service members, appropriate mementos from the Post or Base Exchange, or a plaque. Limited award mementos are also available through the DoD Constitution Bicentennial Office.

Time Capsule

1. Determine specific opening date (i.e., September 17, 2087).
2. Determine where capsule will be placed/stored. Considerations in selecting site include:
 - a. Best location is a place where the external environment will be stabilized, such as a cave or other underground area. The cornerstone of a building surrounded by two to three feet of concrete is also acceptable.
 - b. Specific instructions for opening time capsule should be left in place where it is reasonably certain they will be maintained. Copy of instructions should be maintained in another office located in different building. Also, instructions should be engraved on non-corrosive material placed with the capsule or engraved on the capsule itself. This documentation should include suggestions providing ideal conditions which would minimize damage to contents when contents are exposed to external temperatures. The temperature should be between 65-75 Fahrenheit with low humidity and low lighting.
3. Consideration also should be given to causes of content deterioration. Chemically-inert writing ink and acid-free archival paper should be used to prepare documents. Capsule must be air-tight and constructed of non-corrosive material. Environmental problems within and outside the capsule such as heat and humidity also must be considered. Attempt to avoid either high or low extremes of heat or humidity.
4. Capsule itself can be manufactured of stainless steel or copper. Stainless steel capsule with screw-on lid is preferred. Plastic plumbing pipe (PVC) with caps cemented onto ends also has proven a successful and inexpensive solution. Size that can be easily lifted and moved by one or two people is recommended.
5. After items are placed in capsule, oxygen must be evacuated and insert gas, to reduce deterioration and oxidation of records, should be bled into capsule.
6. Magnetic media (disks, tapes) should include playback equipment. These items should be recorded on polyester base rather than cellulose acetate. Kodak and Ilford have polyester-base films.
7. Combined materials (paper, textile, plastic, metal) can create problems. Recommended that conservator be consulted/hired to build special housing for each product to protect items from each other. Cases made of high-quality acid-free corrugated cardboard can be constructed so that contents fit capsule perfectly.
8. Metal products, such as coins, need to be cleaned and degreased and dipped in resin coating to eliminate corrosion and to minimize pollution of capsule environment.
9. Books: paperback and leather are best choices. Buckram-covered books should be avoided; they would pollute interior of capsule.

10. Textiles: if flag is included in capsule, best to store flat; if must be folded, needs special paper to prevent crease.

11. Photographs: color in photographs is not permanent. Color loss can be minimized by using Cibachrome film. Archival-quality black and white print of each color photograph is recommended.

12. Paper: plan projects to be printed on archival-quality paper. A Xerox copy paper (archival bond quality) with a 25% rag content is available through a government source.

13. Avoid newsprint, if possible. Best to provide quality electrostatic or photograph of newspaper or newspaper article we want to preserve.

SOURCE: Conservation Office
National Archives
Pennsylvania Avenue at 8th St., N.W
Washington, DC 20408
(202) 523-5360



CHAPTER X

Resource Materials

Constitution Bicentennial Resource Materials

Many Constitution Bicentennial materials are available to assist local commemorative programs. Unless 'limited quantity' is specified, quantities are sufficient to meet reasonable requests, which will be honored on a 'first-come, first-served' basis. Write to: HQDA, SABC, Attn: Resource Center, Pentagon, Room 3E524, Washington, D.C. 20310-0107. Telephone: AUTOVON 227-5075/ 5082/ 4673; Commercial (202) 697-5075/5082/4673.

- Pocket-sized Constitutions are appropriate for both commemorative and educational purposes.
- Arabic, Chinese, German, Korean, French, Portuguese, Russian and Spanish translations are available.
- Soldier-Statesmen Pamphlets are excellent educational and commemorative items. The series consists of 23 eight-page pamphlets detailing the life and patriotic contributions of each Soldier-Statesman Signer of the Constitution.
- DoD Bicentennial Resource Guides present annual thematic focus and are excellent educational resources.
- "The Blessings of Liberty: Quotations on the Constitution" is a Pentagon Library publication containing 108 quotations relating to the Constitution. Included is a list of sources of the quotations and an index of persons quoted.
- The "Soldier-Statesmen of the Constitution: The Presidents," a twenty page, color brochure produced by the United States Army Center of Military History, highlights thirty of the forty-one Presidents who had military service and examines the influence of these experiences upon their decision-making process as Commander in Chief.
- "The Ratification of the Constitution" brochure provides historical narrative on the Constitutional Convention and its delegates, the Federalist - Anti-Federalist debates, the State Ratification Conventions and the significance of the Constitution as the "Law of the Land."
- "The 1989 DoD Commemorative Poster features portraits of the thirty Soldier-Statesmen Presidents on a warm brown background with the phrase "The Department of Defense Honors the Soldier-Statesmen Presidents of the United States 1789-1989" across the bottom. The 1989 poster is available in medium (11" by 17") size.
- The 1990 DoD Commemorative Poster features an Armed Forces Color Guard on the steps of the Supreme Court with the phrase "The Department of Defense commemorates the Establishment of the Judiciary (1790-1990) and the Uniform Code of Military Justice." This poster will be distributed DoD-wide, Spring 1990.
- Two educational posters which illustrate the growth of the Nation during our first two hundred years are available (limited quantities): "America on Parade,"

produced by the National Geographic Society; and "Maps of an Emerging Nation," produced by the United States Geological Survey.

- A color brochure produced by the Office of the Deputy Chief of Staff for Personnel, United States Army, entitled "Your Oath" discusses the significance of the oath, and describes how defending the Constitution acts as a common bond among personnel of the military services.
- Reaffirmation Letter of Instruction provides guidance for a ceremony featuring unit reaffirmation of the oath to support and defend the Constitution.
- Oath Reaffirmation Certificates (for civilians, officers and enlisted personnel) are available on camera-ready slicks and simply require unit personalization.
- Presentation Folders (limited quantity) have inside pockets to hold pamphlets and brochures. They can be used to provide Bicentennial theme information for press kits or conferences.
- Pre-printed Bicentennial Program Covers (limited quantity) are four-color, sized 8-1/2" by 11", printed one side, and shipped flat. User must print insert and fold program. Suitable for concert, change of command ceremony, or other significant event, the cover features an eagle on a blue background and the phrase stated in the Preamble of the Constitution: "Provide for the common defence-secure the Blessings of Liberty."
- Sample Bicentennial Defense Community Application includes guidance on completing application to achieve official Bicentennial Defense Community status.
- "Certificates of Recognition" are available to honor those who have meritoriously supported the DoD Commemoration of the Bicentennial of the United States Constitution. Each certificate measures 8" by 10" and is printed on light buff-colored cardstock.
- Letter of Instruction for Celebration of the Bicentennial of the Constitution, developed by U.S. Army Transportation Center, contains ideas on celebrations, many of which can be adapted for Reserve Component units.
- "Documents of Freedom" antique parchment sets (limited quantity) contain transcripts of the Declaration of Independence, the Constitution of the United States, Lincoln's Gettysburg Address, and the Bill of Rights. Sets are appropriate for presentation or framing.
- The Constitution Week pamphlet offers many ideas to support Community Relations activities for the annual celebration of Constitution Week from September 17 through 23 including "Bells Across America." Also, Constitution Week posters are available to support programs and activities.
- "Quizzes and Puzzles on the United States Constitution" includes: 100 Questions and Answers on the Constitution; a word-find puzzle; a crossword puzzle; and an educational quiz.
- "Blessings of Liberty" Videotape (available for loan), developed by the National Park Service, captures the history and drama surrounding the writing of the

Constitution. It includes the establishment of the three branches of government and the ratification of the Bill of Rights. It is available in VHS and 3/4" formats. It was distributed in August 1987 in 16mm format to major Army commands and each service. Running time is 18 minutes; may be locally reproduced.

- "We The People" Videotape (available for loan), a series of 40 one-minute presentations on all the signers of the Constitution, is intended to be shown on television. The series is also appropriate for schools or organizations in five-person segments. Available in VHS and 3/4" formats; may be locally reproduced.
- "America - The Land of the Free" Videotape/Slide-Talk Kit (available for loan) was developed to link into local patriotic celebrations. It depicts the role our Founding Fathers, 23 of whom were Revolutionary War veterans, played in shaping the Constitution. In addition to VHS and 3/4" video formats, a slide version is also available which includes 78 35mm slides, a printed script, and an audio tape. Running time is 14 minutes; may be locally reproduced.
- Bicentennial Record "We the People". The United States Army Field Band has produced a promotional record to commemorate the Constitution Bicentennial. A special composition, "We the People," written by a member of the Field Band, is the featured musical selection. The Military Airlift command Band has produced an album entitled "We the People: Birth of a Dream." The tape includes many patriotic favorites both new and old.
- "Defending the Constitution" Exhibit will travel throughout the United States during the commemorative period. The exhibit, which includes slide-tape and Soldier-Statesmen pamphlets, will visit significant military and civilian Constitution Bicentennial celebrations. Contact LTC Levy (AUTOVON 227-4673/5082; Commercial (202) 697-4673/5082) for information.
- Commemorative items are available for use as awards for participating in Bicentennial events such as essay or poster contests. They also can be used as presentation gifts to foreign dignitaries. (Limited quantities, justification required).
- Constitution Fun Race Packet. A fun race packet has been designed for use by all military organizations. The packet includes color samples of a race logo, race completion certificate, numbers to be worn by participants, start and finish banners, and kilometer posters with Bicentennial quotations. The packet is intended to serve as a guide for organizations wishing to incorporate a Constitution Bicentennial theme into annual runs or races; artwork is conceptual, not a final product. Military organizations are encouraged to join in sponsorship with civilian communities.
- An information paper on the Department of Defense Adopt-A-School Program discusses the objectives of the program, projected activities, benefit to DoD installations and organizations and benefits to the adopted school.
- The Triquetra Information Sheet provides a full-color depiction of the Department of Defense Bicentennial of the Constitution symbol with an explanation of the logo and theme.



CHAPTER XI

CLIP ART

THE PRESIDENT DOESN'T TAKE AN OATH TO DEFEND THE AMERICAN FLAG OR THE STATUE OF LIBERTY.

The President takes an oath to defend something even more important than a majestic symbol of our country.




The President takes an oath to defend the Constitution of the United States. A document that has been described as the greatest leap forward for freedom in human history. A document that is the foundation of our country. And the means by which we achieve the rule of law and protect our freedom.

As we commemorate the Bicentennial of the U.S. Constitution, there is no better way for you as an American to reaffirm the principles for which our country stands than to learn more about the Constitution.

The words we live by.

THE CONSTITUTION The words we live by

To learn more about the Constitution write: Constitution, Washington, D.C. 20599. The Commission on the Bicentennial of The U.S. Constitution. 

BICENTENNIAL OF THE CONSTITUTION CAMPAIGN
MAGAZINE AD NO. BC-2212-87—4 5/8" x 10" [110 Screen]

WE'D LIKE TO
REMIND YOU
THAT THE
UNCENSORED
CONTENT
OF THIS
MAGAZINE
IS MADE
POSSIBLE
BY THE
CONSTITUTION
OF THE
UNITED STATES.

THE
CONSTITUTION
The words we live by

To learn more about the Constitution write: Constitution, Washington, D.C. 20599. The Commission on the Bicentennial of The U.S. Constitution.



BICENTENNIAL OF THE
CONSTITUTION CAMPAIGN
MAGAZINE AD NO. BC-2213-87
2 1/4" x 5"

CM-4-87

CM-4-87

An Airman
A Coast Guardsman
A Guardsman
A Marine
An Officer
A Petty Officer
A Reservist
A Sailor
A Sergeant
A Soldier
This We'll Defend.

This list of personnel may be used in place of "The President" to tailor the preceding advertorial to your publication(s).

AN AIRMAN
A COAST GUARDSMAN
A GUARDSMAN
A MARINE
AN OFFICER
A PETTY OFFICER
A RESERVIST
A SAILOR
A SERGEANT
A SOLDIER

THE ARMED FORCES TAKE AN OATH TO DEFEND WHAT MOST AMERICANS TAKE FOR GRANTED.

When an American enters the Armed Forces he or she takes an oath to defend the Constitution of the United States.

In short, defending the Constitution is



defending America. For the Constitution is the foundation of our country and is the means by which we achieve the rule of law and protect our freedom.

Surveys reveal, however, that many Americans have little or no knowledge of the Constitution. Or fully understand their rights guaranteed under it.

As we commemorate the Bicentennial of the Constitution, there is no better way for you as an American to reaffirm the principles for which our country stands than to learn more about the Constitution.

The words we live by.

THE CONSTITUTION

The words we live by

To learn more about the Constitution write: Constitution, Washington, DC, 20500. The Commission on the Bicentennial of The U.S. Constitution.



AFTER THE DECLARATION OF INDEPENDENCE OUR FOUNDING FATHERS WROTE SOMETHING EVEN MORE IMPORTANT.

Ten years after the signing of the Declaration of Independence our founding fathers created what historians have called the greatest single document struck off by the hand and mind of man.



Our founding fathers created the Constitution of the United States.

For the first time in history, power was granted by the people to the government, and not by the government to the people.


The freedom unleashed by the Constitution allowed Americans to develop their talents and abilities to the fullest. And attain what is now known the world over as the *American Dream*.

As we commemorate the Bicentennial of the U.S. Constitution, there is no better way for you as an American to reaffirm the principles for which our country stands than to learn more about the Constitution.

The words we live by.

THE CONSTITUTION

The words we live by

To learn more about the Constitution write: Constitution, Washington, D.C. 20599. The Commission on the Bicentennial of The U.S. Constitution. 

BICENTENNIAL OF THE CONSTITUTION CAMPAIGN
NEWSPAPER AD NO. BC-87-1165-2 COL.

WE'D LIKE YOU TO RESERVE THE WEEK OF SEPTEMBER 17th FOR A MIRACLE.

George Washington said its creation was "little short of a miracle." James Madison said, "It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand," when describing the process that created it.

Washington and Madison were commenting on nothing less than the document that created our government: The Constitution of the United States. The Constitution is the foundation of our country and the means by which we

achieve the rule of law and protect our freedom.

The week of September 17th is Constitution Week.

Many libraries will have displays and information on this incredible document.

Why not take a look at it. After all, it isn't often you can hold a miracle in your hands.

To get your copy, send your name and address to: Bicentennial Commission, 808 17th Street, N.W., Washington, D.C. 20006-3999.



Constitution Week, September 17th-23rd
THE CONSTITUTION
The words we live by.

The Commission on the
Bicentennial of the U.S. Constitution **Ad Council**

BICENTENNIAL OF THE CONSTITUTION CAMPAIGN
NEWSPAPER AD NO. BC-89-1527-2 COL.
Volunteer Agency: Scali, McCabe, Sloves, Inc.

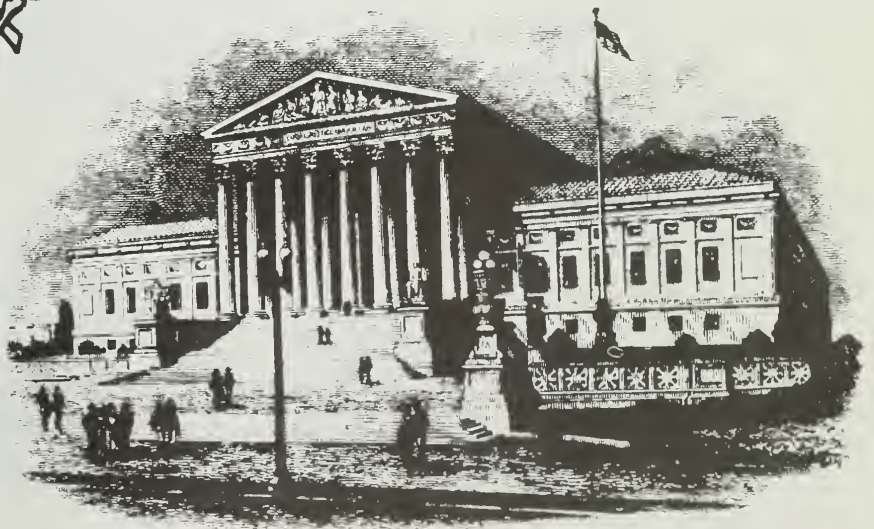
**WE'D LIKE TO
REMIND YOU THAT THE
UNCENSORED CONTENT
OF THIS NEWSPAPER IS
MADE POSSIBLE BY
THE CONSTITUTION OF
THE UNITED STATES.**

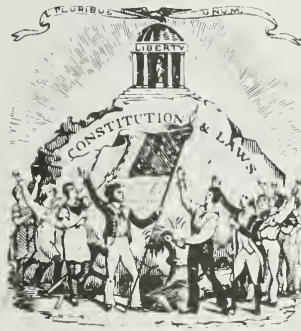
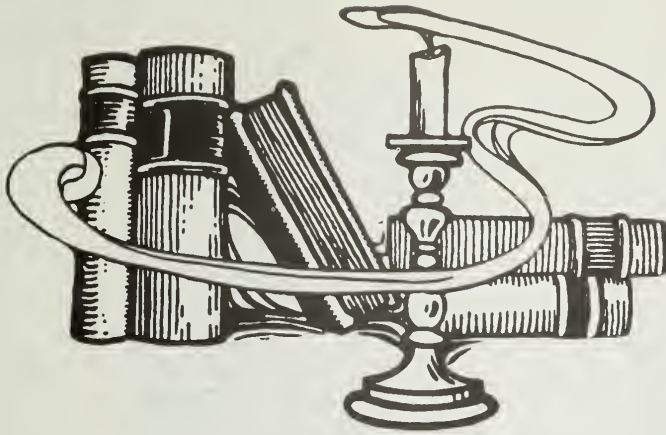
THE CONSTITUTION
The words we live by

To learn more about the Constitution write: Constitution, Washington,
D.C. 20599. The Commission on the Bicentennial of The U.S. Constitution.

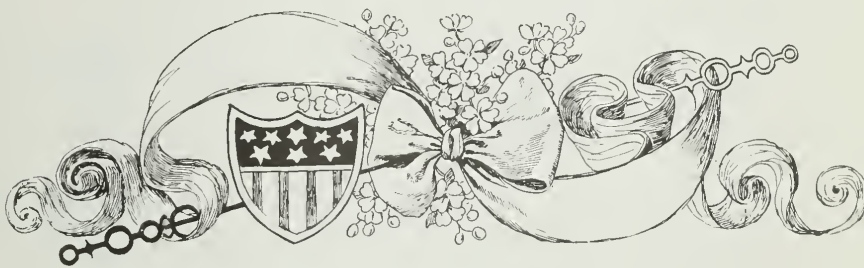
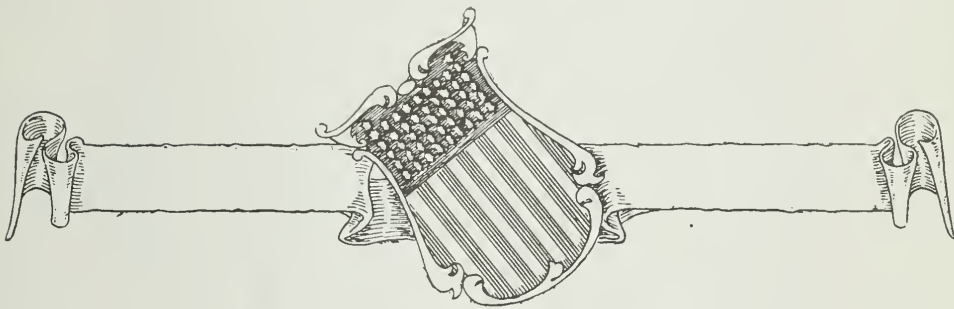
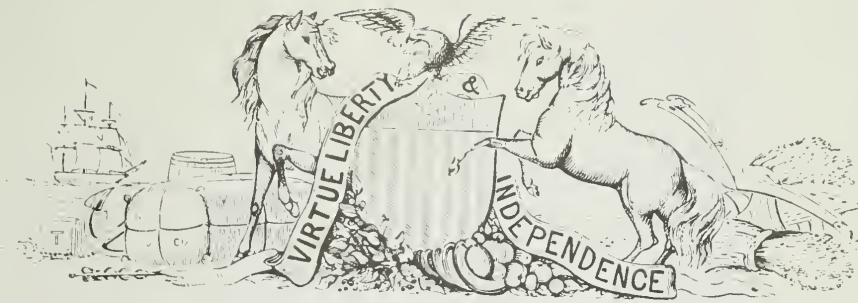


**BICENTENNIAL OF THE CONSTITUTION CAMPAIGN
NEWSPAPER AD NO. BC-87-1166-2 COL.**









Reaffirmation of "Oath of Office"

We it known that

did reaffirm the "Oath of Office"
in honor of the Bicentennial of the
United States Constitution 1987 - 1991

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter. So help me God."

On _____

At _____



Commanding Officer

Reaffirmation of “Oath of Enlistment”

Be it known that

did reaffirm the “Oath of Enlistment”
in honor of the Bicentennial of the
United States Constitution 1987 - 1991

“I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.”

On _____

At _____



Commanding Officer



